Supplement to the "New Law Journal"
Thursday, February 21, 1980

NEW LAW JOURNAL

General Index

VOLUME 129

January to December 1979

Nos 5885 to 5935

LONDON
9-12 Bell Yard, Temple Bar, WC2A 2JZ

BIBL. LONDIN.

General Index

A

ABORTION
A clarification, 944
ACCOUNTANT
Use of word, USA, 551
ACCOUNTING
Companies accounting reference period, 838
Companies accounts regulations, 1258
Company accounting and disclosure: Government proposals for reform, 927
EEC fourth directive: accounts harmonisation, 399
Solicitors' accounts, 762
ACTION
Class actions and access to justice, 870
ADDRESS
Divorce petitioner's address for service, 417
Justice, of, 326
Serviceman, of: disclosure by Government Departments, 655
ADMINISTRATION OF JUSTICE
American experience: trial procedures, 1192
Binding over in magistrates' courts, 283
Contempt and the due, 130
Jury vetting, 484, 918, 919, 963,1015, 1139
Prison discipline and the courts, 308
Public policy and the wrongdoer, 37
Representativeness of juries, 284
Some problems of early release, 257
Transfer of functions from law officers, 196
ADMINISTRATIVE LAW
Judicial interventionism: Haldane Society Lecture, 355
Judicial review: a structural alteration, 460
ADMIRALTY
Form of writs, 292
ADOPTION
County court amendment rules, 812
Magistrates' courts adoption amendment rules, 1025
AGRICULTURE
Agriculture (Miscellaneous Provisions) Act 1968 amendment regulations, 119
AGRICULTURAL HOLDING
Agricultural records amendment regulations (Scotland), 736
Security of tenure: *Johnson v Moreton,* 357
Specification of forms amendment instrument (Scotland), 736
AKROTIRI AND DHEKELIA
Evidence order, 70
Internationally protected persons order, 441
State immunity order, 440
ALGER HISS
Re-opening of case, 847
ALIBI
Notice of, 125
AMERICAN BAR ASSOCIATION
Warren E Burger CJ's annual address, 642
ANCIENT MONUMENT
Ancient Monuments and Archaeological Areas Act 1979, commencement, 736, 790
ANIMALS
Endangered species import and export order, 904
Farriers (Registration) Act 1975, commencement, 70, 267
ANNUITY
CTT: annuities under trusts, 616
Deduction of tax from, 619
Government annuities, 612
Retirement annuity relief:
Investigation settlements, 1227
Practice, 1256
APPEAL
Criminal legal aid on, 1133
Licensing Scotland Act 1976, Amendment Act 1979, under, 1259
ARBITRATION
Arbitration Act 1979:
Commencement, 713
Pragmatic compromise, 920
Commodity contracts order, 713
Exclusion agreement, precedent, 933
Foreign awards order, 345
International investment disputes order, 563
ART AND ANTIQUES
Antique furniture, investment in, 1011
Antique maps, 479
English watercolours, investment in, 1271
Information sources for investors and collectors, 155
Militaria, investment in, 1163
Oriental carpets, investment in, 767
Restoring damaged porcelain, 103
V & A's services to collectors, 279
ATTACHMENT OF EARNINGS
Merchant seamen's earnings: maintenance, 781
ATTENDANCE ALLOWANCE
Amendment regulations, 374
ATTENDANCE CENTRE
Amendment rules, 70
ATTORNEY-GENERAL
Consents to Prosecutions Bill, 196
AUSTRALIA
Law Reform Commission reports:
Sentencing, 699
Unfair publication, 1191
AUSTRIA
Double taxation relief, 297
State immunity order, 440

B

BAIL
Bail or temporary release, immigration, 235
Operation of the Bail Act in London magistrates' courts, 108
BANKING
Banking Act 1979:
Commencement, 836
Exempt transactions regulations, 1049
Need for banking law reform, 872
Personal bank accounts in Spain, 145
Supervising the banks, 1160
BANKNOTES
Investment in coins and banknotes, 619
BANKRUPTCY. *See* INSOLVENCY
BARRISTER
Bar on trial, 30
Bar's public image, 769
Clerks: Royal Commission on Legal Services report, 989
Complaints against counsel in Court of Appeal (Criminal Division): Senate notice, 996
Fees: QBD interlocutory matters (accident cases), 1199
Law centres and legal advice centres, rules for, 995
Right to counsel (USA), 1108
Structure and organisation of the profession: Royal Commission recommendations, 989
BASIL BOOTHROYD
A little bird told me, 844
Artists on easy street, 352
As bad as their word, 596
Can't help laughing, 404
Gifts from strangers, 504
Golden number, 744
Immune, 984
Look for the silver lining, 204
Strength through Stravinsky, 104
BELIZE
Internationally protected persons order, 441
State immunity order, 440
BICYCLE
Cycle lore, 602
BINGO
Increase of fees payable for licences, 41
BIRDS
Wild birds importation order, 857
BIRTH
Consular officers amendment regulations, 904
Registration orders and regulations (fees), 274
BLASPHEMY
Intention to blaspheme, 205, 455
BORROWING CONTROL
Control of borrowing amendment order, 736
BORSTAL
Fines, compensation orders, etc, due from person detained in, 779
BOOKS
A lawyer's book bag, 452
Christmas books, 1188
Dickens on solicitors and their clerks, 1267
Dracula: reviews, 1269
Oxford Dictionary of Quotations, 1219
BRITISH ANTARCTIC TERRITORY
Internationally protected persons order, 441
State immunity order, 440
BRITISH VIRGIN ISLANDS
Internationally protected persons order, 441
State immunity order, 440
BRUSSELS CONVENTION
Interpretive rulings on jurisdictional issues, 469, 588
BUILDING
1979 NHBC agreement, 1239
Regulations, 583
Regulations order, Northern Ireland, draft, 1155
BUILDING SOCIETY
Fees regulations, 41, 1258
Mortgage interest relief, 1227
Special advances order, draft, 1228
BURIAL
Human remains removal licence fee order, 1104
BUSINESS
Stock relief: Budget proposals, 610, 631
Tenancy. *See* LANDLORD AND TENANT

C

CANADA
Double taxation relief order, 119
Foreclosure, 36
Legal profession: staff report, 599
Promoting good citizenship and the rescue principle, 924
Sexual offences: Law Reform Commission report, 1139
CAPITAL ALLOWANCES
Expenditure on producing films, etc, 831
Leased cars and cars costing more than £5,000, 607
CAPITAL GAINS TAX
Avoidance: end of an era? 990
Exempt gilt edged securities order, 72
Gilt edged securities order, 1050
Inflation gains tax, 9
Partnerships, 69
Northern Ireland, 318
Some recent decisions examined, 639
CAPITAL TRANSFER TAX
Annuities under trusts, 616
Discretionary trusts, 610
Grants of representation of small estates, 997
Northern Ireland consequential amendment order, 318, 813
Trustees' power to allow beneficiary to occupy dwelling house, 831
CARE
Retaining a child in care, 223, 648
CARRIER
International Carriage of Perishable Foodstuffs Act 1976, commencement, 466
CARS
Capital allowances on, 607
Taxation of cars as benefit in kind, 855
CAYMAN ISLANDS
Evidence order, 70
Internationally protected persons order, 441
State immunity order, 440
CENTRAL CRIMINAL COURT
Judges authorised to try murders at, 714

CHANCERY DIVISION
Chancery business outside London: motion days, 1203
Motions: proposals for revising the practice, 363
Orders for speedy trial, 167, 279
Review body, setting up of, 1123
CHARITIES
Charity law and the football field, 86
Street collections: metropolitan police district regulations, 1049
CHESTERTON, G K
Neglected genius, 80
Neglected prophet, 916
CHILD
Abortion. *See* ABORTION
Adoption. *See* ADOPTION
Child abuse and neglect: new center, USA, 641
Children and Young Persons Act 1968 (Transitional Modifications of Part I) order (draft), 41
Domestic Proceedings and Magistrates' Courts Act 1978, commencement, 688, 761
First consideration? 456
Illegitimacy:
Europe, in, 670
Law Commission's Working paper, 669, 672, 715, 1115
Juvenile offenders, 1092
Magistrates' courts guardianship of minors amendment rules, 813
Parents under disability in juvenile court, 558
Periodical payments direct to, 267
Remand of girls to prison department establishments, 11, 240
Retaining a child in care, 223, 648
Superannuation children's pension earnings limit order, 1156
Year of the Child, 3
Young offenders. *See* YOUNG OFFENDER
Ward of Court. *See* WARD OF COURT
Wardship and kidnapping, 873
CHILD BENEFIT
Fixing and adjustment of rates amendment regulations, 689, 761, 837
CHINA
First British lawyers' tour, 696
CIRCUITS, THE
Acts of Adjournal: places and times, 1049
Circuit judges: appointments, 1010
Historical survey, 528
CITIZENS' ADVICE BUREAU
Legal services and para-legal workers, 573
Meeting unmet needs, 383
Public funding, 1087
Royal Commission recommendations, 964
CIVIL RIGHTS
Blair Peach death:
Police inquiry into, 1039
Unauthorised weapons, use of, 1247
Protestors beyond the police barricades, 943
Right to protest, 623
SUS and the police, 1063
Sydney Kentridge's address, 31
What protection for individual liberties: Revenue search warrants, 1246
COAL
Opencast coal, interest on compensation order, 42, 836
COINS
Gold, exchange control exemption order, 635
Investment in coins and banknotes, 619
COMMERCIAL COURT
English tradition, 183
Procedure, 191
COMMERCIAL LAW
Commercial exploitation of real names, 791
Contracts: damages for distress? 359
Problem of bona fide liens, 1045
Protection of Trading Interests Bill: summary, 1095
Reservation of title:
Express stipulations, 797
Lessons of *Bond Worth,* 651
Right to trace, 1183
Romalpa distinguished, 195
COMMITTAL PROCEEDINGS
Reporting, 3, 259
COMMONWEALTH
Foreclosure as remedy, 35
Similar fact evidence: *Boardman v DPP,* 534
COMMONWEALTH DEVELOPMENT CORPORATION
Regulations, 498
COMMUNITY LAND
Proposed repeal of Community Land Act, 539
COMPANY LAW
Accounting reference period, 838
Accounts harmonisation: EEC fourth directive, 399
Accounts regulations, 1258
Companies (Annual Return) amendment regulations, 150
Companies Bill:
New clauses, 1175
Proper purpose doctrine and, 123, 135
Second Bill, comment, 679
Yet another type of company, 164
Where do we go from here? 413
Companies Court:
Functions of chief clerk, 1048
Use of postal facilities, 1047
Companies House backlog, 498
Company accounting and disclosure: Government proposals for reform, 927
Company structures in West Germany: advice for the smaller company, 467, 585, 683
Department of Trade:
Fees for notices in London Gazette, 713, 1258
Investigations, 825
Investigations investigated, 1025
Directors. *See* DIRECTOR
Dividend controls: transitional arrangements, 608
Insider share dealings: consultative document, 1071
Loan by company:
Slater case and s 54(1), proviso (a), 1089
Lending in the "ordinary course of business", 801
Receivers. *See* RECEIVER
Reform, 539
Registers and other records regulations, 173
Resumption of work at registration office, 472
Strike at Companies House, 449
Tax and company unveiling, 968
US anti-trust legislation, attack on, 1025
Winding-Up. *See* WINDING UP
COMPENSATION
Acquisition of land, rate of interest after entry regulations, 41, 612, 975
Criminal injuries compensation scheme, 315
Criminal injuries: withdrawal of Bill, 1087
Foreign, financial provisions order, 240
Industrial injury. *See* INDUSTRIAL INJURY
Injury to rescuer: Canada, 924
Loss of office:
Justices' clerks, 49
Traders' golden handshakes, 32
Opencast coal order, rate of interest on, 42, 836
Unfair dismissal, for: Increase of compensation limit order, draft, 1208
Young offender, due from, 779
COMPETITION
Competition Bill, 699
COMPULSORY ACQUISITION
Compensation: boundaries of equivalent reinstatement, 1043
Rate of interest after entry regulations, 41, 612, 975
COMPUTER
Computer-assisted legal information retrieval, 203
Computer abuse, 1244
Distribution of professional information by, 507
Unfair computer contracts, 763
Word processors: a personal experience, 842
CONSTITUTIONAL LAW
Bill of Rights and the European Convention on Human Rights, 505
Bill of Rights: What price majority? 331
Interpreting a Constitutional instrument, 798
Ombudsmen revisited, 604
Saint Lucia:
Constitution order, 150
Termination of association order, 150
Spain's new constitution, 368
Special commissions and constitutional principles, 158
CONSTRUCTIVE TRUST
Matrimonial property and the, 288
CONSUMER CREDIT
Licensing: extended validity and revised fees, 707, 736
Notice of variation of agreements amendment regulations, 688
Proposals from the EEC, 905
Representations concerning, 115
Tax, consumer credit and judicature consequential amendments order, Northern Ireland, 1076
CONSUMER PROTECTION
Food, prohibition of repricing amendment order, 662
Petrol prices display amendment order, 70
Price marking bargain offers amendment order, 662, 975
Price marking bargain offers order, practical problems arising from, 815
Tear-gas capsules safety order, 790
CONTEMPT
Administrative law and the Judges: Haldane Society Lecture, 355
Due administration of justice, and: Colonel B, 130
European obligation to reform, 508
CONTRACT
Bona fide liens, problem of, 1045
Choice of law rules: draft EEC Convention, 770
Commercial contracts: damages for distress, 359
Damages in lieu of rescission, 841
Employment, of:
Constructive dismissal of employee, 499
Dismissal of employee for theft, 591
Employing an ex-employee, 384
Fixed term contracts: the continuing problems, 1195
Recognising a contract of employment, 993, 1022
Unilateral termination, 433
Frustrated holidaymakers and frustrated contracts, 62
Implied terms: quasi contracts, 722
Inaccurate recordings of legal contracts, Scotland, 1256
Misstatement and the Unfair Contract Terms Act 1977, 4
Offer and acceptance in the supermarket, 775
Sale of council houses, 663
Supply of technology to developing nations, 309
Unfair computer contracts, 763
CONVEYANCING
Assisting first-time house buyers, 828
Contract subject to specific performance, 692
Defective title, relief against non-disclosure of, 1251
Lending after the *Williams & Glyn's* case, 1159
1979 NHBC agreement, 1239
Plan "For identification only", 402
Royal Commission on Legal Services report, 1131
Standard conditions, a new form, 286
Time of the essence: waiver, 185
Wives "in actual occupation", 700
COPYRIGHT
Amendment order (Hong Kong), 812
Anton Piller orders and the dishonest trader, 512
International conventions order, 563
CORONERS
Coroner's jury, 1225
CORPORATION
Affidavit of service of writ on: practice forms, 446
Exchange control exemption order, 1128
CORPORATION TAX
Advance, and tax credit, 609
Background notes to the Finance Act 1979, 363

COSTS
Criminal:
Lessons to be learned from the *Wilkinson* case, 1248
Magistrates' courts, 133
House of Lords:
Petitions for leave to appeal, 115
Matrimonial causes rules, 415, 440, 1175
Objectors at public inquiries, of, 677
Small claims costs rules: some developments, 386
Value added tax on, 661
COUNTER INFLATION
Price Commission, number of members order, 761
COUNTRYSIDE
Access to: *Suffolk County Council v Mason,* 329
Villages: a resurrection, 128
COUNTY COURT
Administration of Justice Act 1977, commencement: proof of service of summonses, 812, 857
Adoption amendment rules, 812
Amendment rules, 70, 857, 1228
Fees amendment order, 812, 814, 975
Fees order, 18
Funds amendment rules, 195
Issue of summonses:
Bulk, in, 463
Form, 473, 474
Practice direction, 463
Possession application, precedent, 121
Rent, Case II, rules, 96
COURT OF APPEAL
Criminal Division:
Complaints against counsel: Senate notice, 996
COURT OF SESSION
Court fees, 373
European Assembly election petitions, 522
Revocation of emergency provisions, 612
Rules of court amendment, 18, 661, 1204
Sederunt days, 688
Shorthand writers' fees, 857, 997
Solicitors' fees, 1204
Suspension of business, 297
CREDIT UNION
Credit Unions Act 1979, summary of provisions, 838
Industrial and Provident societies regulations, 836
Precedents relating to. *See* PRECEDENT
CREMATION
Regulations, 1104
CRIMINAL INJURIES COMPENSATION
Acceptance of working party report on scheme, 315
Revisions to scheme, 746
CRIMINAL LAW
"Acceptable to the Crown", 156
Agents provocateurs, 745
American experience: trial procedures, 1192
Burglary and intent to steal, 750
Causes of crime, 231
Central Criminal Court:
Judges authorised to try murders, 714
Consents to Prosecutions Bill, 196
Costs. *See* COSTS
Criminal driving, 323
Death penalty, reintroducing the, 671
Decision to prosecute, 81, 598
Do the poor get a fair deal? 772
Drunkenness:
Detoxification set-back, 107
Problem of, 1191
Fairness to prosecution, 771
Forcible eviction and the Criminal Law Act 1977, 792
Incest: *R v Bedford,* 1219
Intent to steal and the impossibility rule, 1167
Judge on probation, 1036
Juveniles, 1092
Legal services in the criminal context, 985
Lessons of the Thorpe case, 621, 798
Libel. *See* LIBEL
Lilliput revisited, 796
Mentally abnormal offenders, 175
Notice of alibi, 125
Perjury (Northern Ireland) Order, draft, 1229
Political crimes and extradition, 482
Prosecution of offences regulations, 39, 42, 418
Public mischief, crime of, 485
Rape. *See* RAPE
Remand of girls, 11, 240
Reporting committals, 3, 259
Reckless criminal damage, 803
Resisting unlawful police action, 850
Right to protest, 623
Role of detection in identification of offenders, 430
Royal pardon, 131
Scotland:
High Court of Justiciary, suspension of sittings, 297
Sentencing. *See* SENTENCING
Some problems of early release, 257
SUS and the police, 1063
Theft. *See* THEFT
Treatment of offenders: Maconochie's law, 483
Young offenders. *See* YOUNG OFFENDER
CRIMINAL LAW REVIEW
Anniversary, 31
CRIMINAL PROCEDURE
Confessions and the doctrine of oppression, 264
Interests of justice, 29
Evidence to Royal Commission: circuit judges, 482
Police powers and suspects' rights, 407
CROWN COURT
Criminal legal aid, 1134
Rights of audience in, 206
CUSTOMS AND EXCISE
Cider and Perry (Exemption from Registration) order 1976 amendment order, 1024
Customs duty relief regulations, 42
CYPRUS
Suppression of terrorism order, 466

D

DAMAGES
Commercial contracts: damages for distress? 359
Contributory negligence, 674
Damages in lieu of rescission of contract, 841
Exemplary:
Eviction and harassment of tenant, 849
Inflation, and, 282
Personal injuries:
Interim payment and assessment, 626
Lim Poh Choo case, 622
Lost years, for, 8
State benefits in actions for personal injury, 875
Responsibility under the Civil Liability (Contribution) Act 1978, 509
Wrongful dismissal, for: calculating quantum, 882, 887
DANGEROUS GOODS
Merchant shipping amendment rules, 837
DANGEROUS DRUGS
Misuse of Drugs Act 1971 (Modification) order (draft), 42
Phencyclidine, 318
DEATH
Penalty, reintroducing the, 671
Registration fees, 274, 904
Right to die (USA), 77, 1108
DEBT
Interest on debts, 447, 475
DEFAMATION
West Germany, law in, 785
DEFENCE
Armed forces: estate duty, 1256
Imprisonment and defence army rules, 1229
Reserve and Auxiliary Forces (Protection of Civil Interests) (Northern Ireland) order, 373
DENMARK
Double taxation convention, 1233
Extradition amendment order, 1154
DENNING MR
Denning on tape, 647
Discipline of Law, 83
First Lord Fletcher lecture, 1247
DEPARTMENT OF TRADE. *See* COMPANY LAW
DETENTION CENTRE
Fines, compensation orders, etc, due from person detained in, 779
Regimes and reconviction rates: report, 647
DEVELOPMENT LAND TAX
Budget proposals, 608
Leaflets, 69, 167
DEVOLUTION
Scotland referendum order, 120
Wales referendum order, 120
Welsh referendum forms order, 150
DIPLOMATIC PRIVILEGE
African Development Bank order, 70
DIRECTOR
Companies Bill: new clauses, 1175
Duties, 559
Exempting the directors, 6
Powers of directors and receivers, 261
DIRECTOR OF PUBLIC PROSECUTIONS
Transfer of law officers' functions to, 196
DISCOVERY
Disclosure of medical records, 702
Discovery and confidentiality, 1086
Ethnic composition of work force, to show, 1173
DISCRIMINATION
Immigration, 1138
Law centres, by, 1139
Married women and tax, 1228
Racial. *See* RACIAL DISCRIMINATION
Royal Commission on Legal Services recommendations, 989
Sex. *See* SEX DISCRIMINATION
DISTRESS
Distress for rates order, 857
Distress for rent amendment rules, 688
Rates: revised fees, 997
DIVORCE
Conduct and, 230
Divorce and after: TV series, 671
Divorced women, mortgage relief, 315
Financial support, 845
Foreign divorce: recognition, 1165
Husband's share of assets on, 292
Law Society's DIY advertisement, 531
Legal services: undefended divorce, 529
Maintenance. *See* MAINTENANCE
Petitioner's address for service, 417
Reform: a personal view, 948
Revocation of wills on divorce, 556
Statistics, 847, 1252
Talaq, by: recognition, 1165
Transfer of tenancies on, 52
DOMESTIC VIOLENCE
No *Ansah,* 896
Non-molestation injunctions, 1079
Non-violence, 207
Practitioner's viewpoint, 251
Statistics, 1253
DOUBLE TAXATION RELIEF
Austria, 297
Bangladesh, 853
Canada, 119
Denmark, 1233
Jordan, 345
Luxembourg, 48
Malawi, 47
Norway, 47, 297, 345
South Africa, 42, 583
UK/USA convention, 608, 1096
United States of America, 47, 1203
Venezuela, 48, 345
DRIVING OFFENCES
Breathalyser loopholes, 1063
Criminal driving, 323
Drinking drivers, 59, 1115
Ignoring a policeman's signal, 224
DRUG OFFENDER
Bibliography, 902
Law and practice on sentencing, 899
DRUNKENNESS
Breathalyser loopholes, 1063
Detoxification set-back, 107
Drinking drivers, 1115
Problem of, 1191
DULCIE AND OENO ISLANDS
Internationally protected persons order, 441
State immunity order, 440

E

EASEMENT
Rights of way in France, 686
ECCLESIASTICAL LAW
Grants to redundant churches order, 297
EDUCATION
Jurisdiction of the university visitor, 347, 949
When public authorities fail, 282
EEC
Bankruptcy convention, draft, 903
Brussels Convention. *See* BRUSSELS CONVENTION
Community concept of force majeure, 245
Community lawyers, 3
Consumer credit proposals, 905
Contractual obligations: draft Convention on law applicable to, 770
Direct effect of community law, 43
European Assembly:
Day of election order, 298
Election petition rules, 522
Elections, draft proposals, 139
Elections, Northern Ireland, 150
Elections regulations, 150, 298, 373
Elections Returning Officers orders, 298, 373
Returning officers expenses regulations, 583
Scottish constituencies, 97
Welsh forms order, 373
European Communities definition of treaties (draft), 150
Fourth directive: accounts harmonisation, 399
France:
Rights of way in France, 686
Thinking of living in France? 684
Freedom to provide services within member States: recent case law, 367
Inter-community trade: dismantling the technical barriers, 999
Iron and steel employees re-adaptation benefits scheme regulations, 812
Liability for defective products: EC Commission background report, 1233
Patent tying agreement: untying the saucissons de Boulogne, 907
Publication and notification of EEC legislation, 243
Reciprocal enforcement of judgments, 115
Restraints in patent licences, 45, 143
West Germany:
Company structures: advice for the smaller company, 467, 585, 683
Defamation, law of, 785
ELECTORAL LAW
Draft Elections (Welsh Forms) regulations, 373
Election as City of London Alderman, 1247
Election petition amendment rules, 564
European Assembly elections. *See* EEC
Representation of the People amendment regulations, draft, 1206
Scottish local elections amendment rules, 688
Statutory controls on election expenses, 160
EMERGENCY LEGISLATION
Emergency powers, 259
EMPLOYEE
Constructive dismissal of, 499
Dismissal for theft, 591
Employee reports, financial information, 723
Employing an ex-employee, 384
EMPLOYMENT
Constructive dismissal, 499
Contract of. *See* CONTRACT
Dismissal for theft, 591
Employing an ex-employee, 384
Employment Bill: summary of provisions, 1257
Employment protection:
Handling of redundancies variation order, 714, 814
Legislation: working papers, 971
Variation of limits order, draft, 1207
Job Release Act 1977, continuation, 689, 814
Racial discrimination in: discovery, 1173
Recognising a contract of employment, 993, 1022
Reform of labour law: procedural aspects, 863
Remunerative shares: emoluments, 897
Sex discrimination, 721, 739, 1038
Subsidies Act 1978 renewal Great Britain order, 1208
Trade union recruitment activities, statutory protection against, 1095
Unfair dismissal from. *See* UNFAIR DISMISSAL
Unilateral termination, 433
Unemployment benefits. *See* SOCIAL SECURITY
Work permit rules: details, 1176
Wrongful dismissal and injured reputation, 653
EMPLOYMENT AGENCY
Exemption from licensing regulations, 373
Licence fee regulations, 713
EMPLOYMENT APPEAL TRIBUNAL
Listing of appeals, 239
Nominated judges, 1096
EQUITY
Property transactions voided, 425
ESTATE AGENT
Reform at last? 232
ESTATE DUTY
Armed forces, 1256
ESTOPPEL
Planning decisions by, 161
Proprietory estoppel: a principled remedy, 1193
EUROPEAN PARLIAMENT
Assembly elections. *See* EEC
Democracy and the, 530
EVIDENCE
Akrotiri and Dhekelia, taking of evidence in, 70
Blood tests (Evidence of Paternity) amendment regulations: fees, 1024
Cayman Islands order, 70
Criminal Evidence Act 1979, summary, 439
Falkland Islands and dependencies, taking evidence in, 70
Gibraltar, taking evidence in, 70
Proof that goods are stolen, 1018
Similar fact evidence in the Commonwealth, 534
EXCHANGE CONTROL
Authorised dealers and depositaries amendment order, 96, 398, 713, 1127
Bodies corporate exemption order, 1128
Ending of restrictions: consequential tax legislation, 1071
Export of foreign currency order, 635
Exports (Southern Rhodesia) order, 1128
Floating pound, 23
Gold and foreign currency exemption order, 1153
Gold coins exemption order, 635
Import and export exemption order, 1153
Lifting of exchange controls: court procedure, 1124
Official exchange, availability, 723
Payments, etc, exemption order, 1153
Purchase of foreign currency order, 42
Relaxations in Spain, 1231
Revocation directions, 1204
Securities, etc, exemption order, 1204
Settlements exemption order, 1205
EXPORT
Endangered species order, 904
Exchange control exemption order, 1153
Exchange control (Southern Rhodesia) order, 1128
Rhodesian trade sanctions, removal, 1255
EXTRADITION
Denmark amendment order, 1154
Internationally protected persons order, 441
Norway, amendment order, 812
Political crimes and extradition, 482
Tokyo Convention amendment order, 70

F

FALKLAND ISLANDS AND DEPENDENCIES
Evidence order, 7
Internationally protected persons order, 441
State immunity order, 440
FAMILY ARRANGEMENT
Deed, precedent, 72
FAMILY DIVISION
Appeals from registrars, 239
Costs rules: practice notes, 415, 1175
Directions for trial in defended causes, 11
Disclosure of addresses by Service Departments, 655
Divorce petition:
Petitioner's address for service, 417
Probate: fiat copies, 1175
Matrimonial causes: special procedures lists, 1255
FAMILY LAW
Blood Tests (Evidence of Paternity) amendment regulations, 1024
Conduct and divorce, 230
Domestic violence, *See* DOMESTIC VIOLENCE
Family courts, proposals, 305
Judicial discretion in child-snatching cases, 64
Lending after the *Williams & Glyn's* case, 1159
Matrimonial statistics, 199, 1252
One-parent families:
Family income supplement and the new poverty trap, 800
Unmarried couples, USA, 957
Wardship of court and the chess game, 84
FESTIVALS
Christmas: season for all, 1272
FIELDING, HENRY
Bow Street novelist, 960
FILMS
Censorship: obscenity law reform, 1189
Expenditure on producing: capital allowances, 831
FIREARMS
Amendment order (Northern Ireland), 837
Arming the police, 182
Control, 182
Scotland, variation of fees order, 195
Variation of fees order, 173
Variation of fees revocation order, 440
FISHERIES
Fishing vessels safety provisions rules, 71
Mesh sizes: European Court of Justice decision, 1096
Sea:
Irish sea herring (Prohibition of Fishing) order, 997
Third country fishing enforcement regulations, 1206
FOOD
Control of food premises order, draft, Northern Ireland, 1229
Directive on food prices, 932
Liqueur chocolates, licensing, 1229
Prohibition of repricing amendment order, 662
FOREIGN CURRENCY
Export, exchange control, 635
Purchase, exchange control, 42
FORESTRY
Investment in, 867
FRANCE
Rights of way in France, 686
Thinking of living in France? 684
FRIENDLY SOCIETY
Life assurance premium relief: children's policies, 1127
FUGITIVE OFFENDER
Denmark extradition amendment order, 1154
Designated Commonwealth countries order, 498
Extradition (Tokyo Convention) amendment order, 70
Norway extradition amendment order, 812

G

GAMING
Gaming Act, variation of fees order, 41
GAS
Consumers' Deposits (Rate of Interest) order, 48
GEMSTONES
Investment, as, 915

GIBRALTAR
Evidence order, 70
GILBERT ISLANDS
Internationally protected persons order, 441
State immunity order, 440
GOLD COIN
Exchange control exemption order, 635, 1153
GUERNSEY
Internationally protected persons order, 563

H

HEALTH AND SAFETY
Mines and Quarries Act 1954 modification regulations, 70
HENDERSON ISLAND
Internationally protected persons order, 441
State immunity order, 440
HIGH COURT OF JUSTICIARY
Acts of Adjournal (Circuits), 1049
Revocation of emergency provisions, 613
Suspension of sittings, etc, 297
HIRE-PURCHASE
Hire-purchase and credit sale agreements control amendment order, 1024
HISTORY
Crimean war: *Cadogan's Crimea,* 1112
Escape to adventure: *A Gentleman Volunteer* 1164
Europe's incubus: Napoleon, 1216
Karol Wojtyla: front line leader, 572
Legal. *See* LEGAL HISTORY
Lord George Sackville: *Coward of Minden,* 768
Mongols: The pitiless horde, 280
Napoleonic wars: The years of slaughter, 328
100 years ago, 85, 122, 290, 349, 527, 595, 668, 818, 940, 1021, 1254
Siege Warfare, 720
Solicitor's story of World War II: MacGeagh's horse, 793
Strongholds of the Realm: defences, 868
Tower of London: conqueror's keep, 620
Unpredictable peer (Camelford), 180
Vercors: The redoubt betrayed, 428
Villages: a resurrection, 128
HONG KONG
Copyright amendment order, 812
Internationally protected persons order, 441
State immunity order, 440
HOSPITAL
Admissions: duty of care, 567
Mental health patient. *See* MENTAL HEALTH
Negligence or error of judgment, 1217
Social security hospital in patients amendment regulations, 319
HOUSE OF LORDS
Case titles in criminal causes, 239
Costs:
Taxation in petitions for leave to appeal, 115
Leave to appeal out of time, 807
Petitions for leave to appeal, 439, 464
HOUSING
Assistance for house purchase and improvement order, 42, 662
Assistance for house purchase and improvement transitional provisions regulations, 1228
Assisting first-time house buyers, 828
Contracts relating to sale of council houses, 663
House-building standards approved scheme order, 397
Housing Act 1974, commencement: clearance orders, 1049, 1076
Housing corporation advances increase of limit order, 1205
Rent rebate and rent allowance schemes and service amendment regulations, 1154
Some recent cases on the Rent Act 1977: meaning of "family", 629
HOVERCRAFT
Civil liability order, 173
HUMAN RIGHTS
Bill of Rights and the European Convention, 505
Bill of Rights: What price majority? 331
Illegitimacy in Europe, 670
Incorporation of European Convention: first Lord Fletcher lecture, 1247
Protection of the European citizen, 1099
Right to die, USA, 1108
Universal declaration of human rights after 30 years, 432
HUSBAND
Rape of wife by, 332
Share of assets on divorce, 292

I

IDENTIFICATION
Role of detection in identification of offenders, 430
ILLEGITIMACY. *See* CHILD
IMMIGRATION
Applications under Immigration Act 1971, 584
Bail or temporary release, 235
Control of entry through Republic of Ireland amendment order, 713
Discrimination, 1138
Nationality and immigration, 846
Registration with police amendment regulations, 273
IMPORTATION
Endangered species order, 904
Exchange control import and export exemption order, 1153
Wild birds order, 857
IMPRISONMENT
Army rules, 1229
INCOME TAX
Background notes to the Finance Act 1979, 363
Building society interest relief, 1227
Deduction from annuities, interest, etc, 609
Employments regulations, 688
Flat rate expenses, 1255
Life assurance premium relief, 339, 373
Married women, discrimination and tax, 1228
Mortgage relief for divorced women, 315
PAYE:
Possible future developments, 339
Remission of tax in cases of official error, 1124
Trustee Savings Bank interest: end of tax exemption, 1025
INDUSTRIAL AND PROVIDENT SOCIETY
Credit Union Act 1979, commencement, 813
Credit unions authorised investments order, 790
Credit unions regulations, 836
INDUSTRIAL DEVELOPMENT
Assisted areas order, 813
Derelict land clearance areas order, 373
Regional development grants variation of prescribed percentages order, 1205
INDUSTRIAL INJURY
Pneumoconiosis, etc (Workers Compensation) (Determination of Claims) regulations, 689
Social security prescribed diseases amendment regulations, 635, 881
INDUSTRIAL RELATIONS
Closed shop: Fabian pamphlet, 1015
Reform of labour law: procedural aspects, 863
Reforming the law relating to: Government's proposals, 697
Right of dissent, 1246
INFLATION
Damages and, 282
Effect on value of money, 291
INFORMATION
Computer-assisted legal information retrieval, 203
Computerised legal and tax information, 507
Freedom of information and the public interest, 430
Inland Revenue enquiry and information services, 168
Official information: public's right of access to, 747, 847
Official secrets, 1063
Protection of Official Information Bill, 1137
Right to know: Press Council statement, 623
Stealing information, 967
INJUNCTION
Hydrogen bomb details, restraining publication of, USA, 1108
Mareva injunction, 583
Non-molestation injunctions, 1079
Tree preservation orders, to restrain breaches of, 579
INSOLVENCY
Bankruptcy:
Amendment rules, 1258
EEC draft bankruptcy convention, 903
Fees amendment order, 1258
Fees order, 713
INSURANCE
Broker. *See* INSURANCE BROKER
Credit insurance: draft EEC directive, 998
Law reform: Law Commission's proposals, 773
Lloyd's general business regulations, 613, 813
Solvency margin regulations for Lloyd's, 611, 808
INSURANCE BROKER
Professional indemnity rules, 439, 440
Registration Council:
Accounts and business requirements rules approval order, 466
Registration and enrolment amendment rules approval order, 466, 522
INTEREST
Acquisition of Land (Rate of Interest after Entry) regulations, 41
Debts, on, 447, 475
Gas consumers, deposits, 48
Judgment debts, on, 1205
Judgment debts order, 1155
Mortgage interest relief, 1227
Opencast Coal (Rate of Interest on Compensation) order, 42
Supreme court funds, rate of interest, 196
Tax relief for interest paid on loans, 608
Trustee Savings Bank: end of income tax exemption, 1025
INVESTMENT
Antique furniture, 1011
Antique maps, 479
Capital growth investments, 959
Coins and banknotes, 619
Commodity future trading syndicates in USA, 378
Computer packages for portfolio management, 327
English watercolours, 1271
Forestry investment, 867
Gemstones, 915
High income investments, 1111
Information sources for investors and collectors, 155
Islands for sale, 1215
Investment counselling, 526
Managed bonds, 719
Manor houses, 1059
Militaria, 1163
Mining shares, 55
Onshore and offshore commodity funds, 227
Oriental carpets, 767
Precious metals other than gold, 667
Property shares, 427
Prospects for 1979, 27
Restoring damaged porcelain, 103
Second castle in Spain, 179
Signals for investors, 819
Unit trusts, 571
V and A's services to collectors, 279
IRELAND
Foreclosure as remedy in, 35
IRISH REPUBLIC
Control of entry through, amendment order, 713
Termination of reciprocal recognition of medical qualifications, 318
ISLE OF MAN
Internationally protected persons order, 563

J

JERSEY
Arbitration, international investment disputes

order, 563
Internationally protected persons order, 563
JORDAN
Double taxation relief, 345
JUDGES
Appointment of judges, 822
Central Criminal Court: judges authorised to try murders, 714
Circuit: appointments, 1010
Election of the judiciary, 1064
Employment Appeal Tribunal, 1096
Judicial appointments, 27, 83, 315, 480, 796, 913, 939, 1058
Judiciary and the trade unions, 431
Recorders: appointments, 974
Role of the judge, 942
Selection of Federal judges in USA, 717
JUDGMENTS
Amending hand, 1115
Default of defence: indorsement on judgment, 516
Judgment debts rate of interest order, 1155, 1205
Reciprocal enforcement, 115
JUDICIAL OFFICE
Superannuation amendment rules, 688
JURISPRUDENCE
A new focus, 313
Legal theory, legal practice and social science, 532
JUROR
Acts of Adjournal (Circuits) 1979, 1049
American experience, an, 1192
Challenging jurors, 871
Coroner's jury, 1225
Juries secrets, 1219
Jury problems in the USA, 1016
Jury-vetting, 484, 918, 919, 963, 1015, 1139
List, Northern Ireland, 195
Representativeness of juries, 284
Twelve individuals chosen at random, 58
JUSTICE
Annual report (22nd), 623
Legal services and *Justice,* 1141
New address, 326
Offences relating to interference with course of: Law Commission report, 1114
JUVENILE COURT
Constitution amendment rules, 813
Juvenile offenders, 1092
Parents under disability in, 558

L

LAND CHARGE
Local:
Amendment rules, 1205
Increases in fees, 1227
LAND REGISTRY
District registries order, 837, 847
LANDLORD AND TENANT
Agricultural holding. *See* AGRICULTURAL HOLDING
Business tenancy:
Alteration of terms in new lease, 434
Time for service of application for new tenancy, 441
Eviction, harassment and exemplary damages, 849
Forcible eviction and the Criminal Law Act 1977, 792
Housing Rights Book: the essential roof, 1012
Landlord's liability for repairs, 727
Landlord-tenant disputes in USA, 717
Meaning of "family": some recent cases, 629
Public sector tenancies, 210, 301, 388
Rachman: setting the record straight, 1056
Recovery of possession by home owners, 291
Refusal of consent to sub-let, 955
Rent. *See* RENT
Saga of Camden Hill Towers, 691
Service occupancy: mesne profits and married quarters, 260
Students and the Rent Acts, 646
Succession rights: Rent Acts and secure tenancies, 536
Tale of unlawful eviction, 937
Tenant's covenant to repair: Lessons of *Ravenseft,* 839
Tenants of mortgagors, a possible remedy for, 457
Transfer of a tenancy: the landlord's position, 1069
Transfer of tenancy and the Matrimonial Homes Act 1967, 52
LAW CENTRE
Advantages of law centres, 1122
Central London Law Centre, cost, 539
Discrimination by, 1139
Law Centres' News, 823
On being different, 355
Politics and independence, 106
Royal Commission's proposals, 962, 964
Rules for law centres, 995
View from the law centres, 1144
Wandsworth: Council's proposals, 645
LAW COMMISSION
Illegitimacy, Working Paper, 669, 672, 715
Implied terms of contracts for the supply of goods, report, 722
Insurance law, 773
Law reform and the public, 894
Offences relating to interference with course of justice: report, 1114
LAW REFORM
Companies, 164, 539
Company accounting and disclosure: Government proposals, 927
Divorce reform: a personal view, 948
Estate agents, 232
Family courts: proposals, 305
Insurance law: Law Commission's proposals, 773
Labour law: procedural aspects, 863
Law reform and the public, 894
Leasehold reform, 196
Legal aid: another step forward, 115, 158
Obscenity law, 1189
Reporting committals, 5, 259
LAW SOCIETY
Complaints against solicitors, treatment of, 553
Conference 1979, 1035
Council statement: announcements by solicitors in Press, etc, 1023
DIY divorce advertisement, 531
Personal view, 60
Priorities of reform, 1166
LEASEHOLD ENFRANCHISEMENT
Price payable, 196
LEASEHOLD REFORM
Bill: *Jones v Wentworth Securities,* 196
LEGAL ADVICE AND ASSISTANCE
Amendment regulations, 318
Financial conditions regulations, 18, 240, 273, 837, 975, 1104, 1155
Financial conditions regulations, Scotland, 1155, 1229
LEGAL ADVICE CENTRE
Barristers employed at: rules of conduct, 995
LEGAL AID
Access to courts: *Airey* case, 1039
Advisory committee report, 529
Assessment of resources amendment regulations, 318
British and American: a comparison, 724, 1220
Civil:
Notes on scheme, 215
Royal Commission on Legal Services, report, 964, 988
Courts' discretion, 59
Criminal:
Assessment of resources amendment regulations, 174, 196, 215
Fees and expenses amendment regulations, 373
Fees, Scotland, 19
Royal Commission Report on Legal Services: Personal view, 1133
Report, 965, 985
Setting up a legal aid practice, 1055
Do the poor get a fair deal? 772
Domestic violence, 253
Financial conditions regulations, 18, 240, 837, 1155, 1229
General amendment regulations, 318
Legal aid and legal services, 1119
Legal Aid Act 1979, commencement, 714
Legal Aid Bill:
Another step forward, 158
Summary of provisions, 115
Refusals, 455
Scotland. *See* SCOTLAND
Setting up a legal aid practice, 911, 935, 979, 1007, 1031, 1055
Summary proceedings: London's magistrates revisited, 375
LEGAL EDUCATION
A face lift, 1037
Future of: Royal Commission's recommendations, 1004
Law teaching in schools, 184
Legal education after Benson, 1117
LEGAL EXECUTIVE
Royal Commission on Legal Services: recommendations, 989
LEGAL HISTORY
Assize of Windsor 1179, 552
Charles Fearne, 892
Charles Peace, 643
Cinque ports and their warden, 764
Circuits: historical survey, 528
Habeas Corpus Amendment Act 1679, third centenary, 304
How to sell your wife, 1268
Joseph Story: the American Blackstone, 1244
Royal pardon for Galley, 331
Statute of Mortmain, 304
Weights and measures: history of the mile, 51
LEGAL INFORMATION
Computer-assisted retrieval, 203
Computer-assisted publishing of, 507
LEGAL LITERATURE
Dickens on solicitors and their clerks, 1267
LEGAL OFFICE
Job enrichment, a fresh look at, 1187
Productivity, a fresh look at, 1243
Setting up a legal aid practice:
Cash flow, 1031
Criminal legal aid, 1055
Economics, 911
Expense rate, 979
Office systems, 935
Proportion of legal aided work, 1007
LEGAL PROFESSION
Community lawyers, 3
Competence of trial lawyers in USA, 478
Do lawyers do more harm than good, USA, 1040
Election of the judiciary, 1064
Ethical conduct in USA, 478
First faltering steps, 940
Fusion, 330
Law and society, 183
Lawyers as defendants (USA), 478
Lawyers' Euro-cards, 54
Legal professional privilege: the new test, 698
Ontario study of four professions: staff report, 599
Review of 1978, 1
Royal Commission on Legal Services report, 964, 988
Sex discrimination in, 1143
Should the Silk system continue? 555
Sole practitioner: declining species, 356
LEGAL SERVICES
Advisory committee on legal aid, report, 529
Communications: languages spoken by solicitors, 699
Community lawyers, 3
Distribution, 1146
Employed lawyer, and the, 132
Employment and independence, 82
Evidence to Royal Commission:
Law Society, 206
Lord Goodman, 330
Senate, 206
Justice, 1141
Legal aid and legal services, 1119
Meeting unmet needs: CAB, 383
Northern Ireland, in, 506
Para-legal workers, and, 573

Right to counsel (USA), 1108
Royal Commission:
main recommendations, 574
Royal Commission Report:
Adjournment debate, 1123
Change and consolidation, 961
Criminal context, legal services in the, 985
Development and control, 962
Financing litigation out of public funds, 963
Implementing Benson, 1113
Other recommendations, 988
Personal views, 1116-1122, 1131-1136, 1140-1146
Principal recommendations, 964
Solicitors: competence and confidence, 986
Why didn't the Commission ask for more? 1223
Satisfaction and solicitors' services, 129
Self-help scheme: Restrictiveness v Innovation, 454
LIBEL
Criminal libel:
In need of reform, 381
LICENSED PREMISES
Exclusion of Certain Persons Bill, 331
LICENSING
Appeals under Licensing Scotland Act 1976, 1259
Consumer Credit Act, extended validity and revised fees, 707, 736
Employment agency:
Exemption from licensing regulations, 373
Licence fee regulations, 713
Licensing Act 1964 amendment regulations, 1229
LIFE ASSURANCE
Premium relief:
Children's policies, 240
Deduction, by, 168, 339
Where commission payable to policy holder, 217
LOAN
Lending in the "ordinary course of business", 801
Slater case and s 54(1)(a) of Companies Act 1948, 1089
Tax relief for interest paid, 608
LOCAL AUTHORITY
National assistance charges for accommodation regulations, 761
Retaining a child in care, 223, 648
Sale of council houses, contracts relating to, 663
LOCAL GOVERNMENT
Injunctions and tree preservation orders, 579
Metropolitan counties (Local Statutory Provisions) order, 813
Rate support grant:
Order, 48
Regulations, 49
LONDON
Election of aldermen: *Silk* case, 1247
Inner, Domestic Courts (Constitution) rules, 755, 761
Small claims court, 723
LONDON TRANSPORT
Lost property amendment regulations, 72
LUXEMBOURG
Double taxation relief, 48

M

MAGISTRATES' COURT
Adoption amendment rules, 1025
Amendment rules, 1025
Binding-over, 283
Clerk:
Changes in role of, 208
Compensation for loss of office, 49
Qualifications of assistants, rules, 563
Consolidation of legislation, 646
Criminal legal aid, 1134
Domestic court panels, rules, 755
Domestic courts constitution rules, 755, 761
Domestic Proceedings and Magistrates' Courts Act 1978, commencement, 688, 755
Fines, compensation orders, etc: Home Office practice, 779
Forms amendment rules, 1024
Guardianship of minors, amendment rules, 813
Legal aid in summary proceedings: London magistrates revisited, 375
Operation of Bail Act in London, 108
Petty sessional divisions:
Cheshire, 71
Essex, 1076
Pleas in mitigation, powers as to, 348
Prosecution costs in the, 133
Reciprocal enforcement of maintenance orders rules, 240, 274
Sentencing: discretion and consistency, 1218
MAINTENANCE
Attachment of merchant seamen's earnings for payments, 781
Designation of reciprocating countries, 241
Facilities for enforcement (Revocation Order) 1979, 241
Obligation to maintain, 895
Reciprocal enforcement amendment rules, 240, 274
Reciprocal enforcement of maintenance orders (Hague Convention Countries) order, 1155
Recovery of maintenance United States of America order, 1155
MALAWI
Double taxation relief, 47
MAP
Antique maps as investment, 479
Definitive map as conclusive evidence, 329
MARINERS
Social security contributions, 49
MARRIAGE
Registration fees regulations (Scotland), 274
Revocation of wills on marriage, 547
MATRIMONIAL HOME
Wife "in actual occupation", 258
MATRIMONIAL LAW
Costs, rules, 440
Domestic violence. *See* DOMESTIC VIOLENCE
Matrimonial causes amendment rules, 440
Matrimonial causes costs rules, 1175
Matrimonial causes fees amendment order, 813
Matrimonial property and the constructive trust, 288
Matrimonial statistics, 199, 1252
Transfer of tenancy and the Matrimonial Homes Act 1967, 52
MEDICAL PROFESSION
Irish Republic:
Reciprocal recognition of qualifications, termination of 1927 agreement, 318
Medical Act 1978, commencement, 813
MEDICINES
Phenacetin prohibition order, 997
MEDICO-LEGAL
Abortion: a clarification, 944
Crime and personality: genetic model, 483
Disclosure of medical records, 702
Medical malpractice claims in USA, 378
Medical malpractice panel, validity, USA, 551
Negligence or error of judgment? 1217
Sexual violence, 799
Some legal implications of embryo transfer, 627
Withdrawal of life support systems: "Switching off" and causation, 376
MENTAL HEALTH
Consent to treatment, 186
Dispensing with consent of patient's nearest relative, 942
Legal problem of mental patients, USA, 641
Mentally abnormal offenders, 175
Parents under disability in juvenile court, 558
Review of Mental Health Act 1959, 151
Review tribunals: evidence of MIND to Inter-Departmental Committee on, 799
Treatment ban: "special" patients, 823
Unimpeded access to courts, 213
MERCHANT SHIPPING
Attachment of seamen's earnings, 781
Dangerous goods amendment rules, 837
Foreign deserters (Disapplication) order, 274
Fishing vessels: safety provisions rules, 71
Merchant Shipping Act 1970, commencement, 736
Merchant Shipping Act 1974, commencement, 736
Merchant Shipping Act 1979, commencement, 736
Sterling equivalents order, 736
MINES
Mineral exploration order (Northern Ireland), draft, 1205
Mines and Quarries Act 1954: modification regulations, 70
MINIBUS
Designated bodies amendment order, 120
Law, 75
Permits amendment regulations, 150
MINISTER OF THE CROWN
Transfer of functions orders, 563
MISREPRESENTATION
Misstatement and the Unfair Contract Terms Act 1977, 4
MOBILITY ALLOWANCE
Amendment regulations, 298
Social Security Act 1979, commencement, 837
Social Security Pensions Act 1975, commencement, 298, 498, 838
MONEY
Effect of inflation, 291
Floating pound, The, 23
MONTSERRAT
Internationally protected persons order, 441
State immunity order, 440
MORTGAGE
Assistance for house purchase and improvement variation of subsidy order, 42, 662
Assisting first-time house buyers, 828
Assistance for house purchase and improvement transitional provisions regulations, 1228
Foreclosure, 33
Lending after the *Williams & Glyn's* case, 1159
Liability of lenders in possession, 334
New equity: *Quennell v Maltby*, 624
MORTGAGOR
Tenants of mortgagors, a possible remedy for, 457
MOTOR VEHICLE
Authorisation of special types general order, 1050
Construction and use amendment regulations, 298, 790, 904
Designation of approval marks, 49
Drivers:
Hours (Keeping of Records) amendment regulations, 120
Driving licences amendment regulations, 1206
Goods vehicles:
Authorisation of international journeys fees amendment regulations, 120, 174
Rear fog lamps amendment regulations, 975
Road vehicles lighting amendment regulations, 736
Tests regulations, 441
Tests amendment regulations, 1050
Type approval amendment regulations, 71, 975
MOTORWAY
Tyme, gentlemen, 28
MUSIC
Musical annals, 480

N

NAME
Commercial exploitation of real names, 791
NATIONAL ASSISTANCE
Charges for accommodation regulations, 761, 975
NATIONAL DEBT
Savings certificates amendment regulations, 1205

NATIONAL INSURANCE FUND
Diseases in respect of which benefit payable out of, 635
NATIONAL SAVINGS
National Savings Bank investment deposits order, 72
Savings certificates regulations, 71
NATIONALITY
British nationality amendment regulations, 297
Nationality and immigration: racial and sex discrimination, 846
NATURAL JUSTICE
Wardship and: *Bain v Wood,* 382
NEGLIGENCE
Hospital admissions: duty of care, 567
Negligence or error of judgment? 1217
NEW HEBRIDES
Registration of births and deaths (Consular Officers) amendment regulations, 904
NEW TOWN
Limit of borrowing order 1979 (draft), 150
NEW ZEALAND
Foreclosure, 36
NORTHERN IRELAND
Administration of estates order, draft, 1076
Appropriation (Northern Ireland) order 1979 (draft), 274
Building regulations order, draft, 1155
Capital transfer tax, 318, 813
Control of food premises order, draft, 1229
Emergency provisions continuance order, 613, 761
European Assembly elections regulations 1979 (draft), 150, 298
Firearms amendment order, 688, 837
Health and personal social services order, 71
Inheritance (Provision for Family and Dependants) order 1979 (draft), 319
Interim period extension order, 761
Interviewing terrorist suspects by their solicitors, 747
Judgments enforcement and debts recovery order, 96, 398
Judgments enforcement consequential provisions order, 96, 373
Judicature (Northern Ireland) Act 1978, commencement, 96, 195, 418
Judicial appointments, 856, 1017
Legal aid, advice and assistance order, draft, 1155
Legal services in, 506
Mineral exploration order, draft, 1205
Northern Ireland Act 1974 (Interim Period Extension) order, draft, 613
Perjury order, draft, 1229
Prevention of terrorism (Supplemental Temporary Provisions) amendment order, 298
Prohibited organisations order, 688
Protection of civil interests order, 373
Rates amendment order 1979 (draft), 174
Social security order, 418
Shops order, 71
Tax, consumer credit and judicature consequential amendments order, draft, 1076
Workers compensation order, draft, 714
NORWAY
Double taxation relief, 47, 297, 345
Extradition amendment order, 812
NURSING PROFESSION
Nursing qualifications (EEC Recognition) order, 688

O

OBSCENE PUBLICATIONS
Defence of "Public good", 299
OBSCENITY
Law reform: report, 1189
OMBUDSMAN
Local, complaints received by, 671
Ombudsmen revisited, 604
OFFICIAL SECRETS. *See* SECURITY

P

PAKISTAN
Citizens of, registration as citizens of UK, 807
Talaq divorce: recognition in England, 1165
PARLIAMENTARY COMMISSIONER
Order, 813
PAROLE
Board's 1978 annual report, 747
PARTNERSHIP
Affidavit of service of writ of summons by post on: practice form, 445
Capital gains tax, 69
PATENT LAW
Are micro-organisms patentable? (USA), 1109
Patent licensing agreements: EEC, 907
Restrictions in licensing agreements, 45, 143
PENSIONS
Appeal tribunals. *See* PENSIONS APPEAL TRIBUNAL
Children's pensions, earnings limit order, 688
Contracted-out employment regulations, 71
Increase (India, Pakistan and Burma) amendment regulations, 1050
Increase review order, 857
Judicial offices, amendment rules, 688
Occupational pension schemes: Revenue booklet, 879
Navy, military and air forces, etc, disablement and death pensions amendment order, 1155
Overseas service pensions supplement amendment regulations, 1050
Personal injuries (civilians) amendment scheme, 318, 1156
Social security. *See* SOCIAL SECURITY
Superannuation children's pensions earnings limit order, 1156
PENSIONS APPEAL TRIBUNAL
Amendment rules, 71
Rules (Scotland), 196
Scotland amendment rules, 196
PERSON UNDER DISABILITY
Parents under disability in juvenile court, 558
PERSONAL INJURY
Civilians amendment scheme, 1156
Compensation, assessment of: *Lim Poh Choo* case, 622
Criminal injuries compensation scheme, 315
Damages and inflation, 282
Damages for lost years, 8
Delay in personal injury actions, 306
Disclosure of medical records, 702
Interim payment and assessment of damages, 626
Lodging agreed experts' reports, 217
QBD interlocutory matters: counsel's fees, 1199
State benefits in actions for personal injury, 875
War pensions scheme, civilians, 318
PERU
Fugitive criminal, 70
PETROLEUM
Petrol prices display amendment order, 70
Revenue tax:
Changes, 610
Collection arrangements, 1199
Self-service filling station, prohibition against (USA), 1109
Taxation of petrol as benefit in kind, 856
PICKETING
Employment Bill, 1258
Lawyers' picket, 59
Legal limitation, 291
Picketing, 31
Picketing and intimidation, 105
Picketing, law and anarchy, 57
Secondary picketing, 111
PITCAIRN ISLAND
Internationally protected persons order, 441
State immunity order, 440
PLANNING
Control of office development cessation order, 814
Decisions by estoppel, 161
Discontinuance orders, 423
Industrial development certificates regulations, 814
New towns (Limit of Borrowing) order 1979 (draft), 150
Planning permission and the eccentric millionaire, 704
Planning permission, outline and detail, 61
PLANT
Leasing, tax aspects, 275
PLATINUM
Investment in, 667
PLEA BARGAINING
Is openness enough? 159
POLICE
Abandonment of children on highway by: US Constitution, 717
Arming the police, 182
Bennett report, 307
Complaints Board, 531
Decision to prosecute, 81
Inquiry into Blair Peach affair, 1039
Police powers and suspects' rights, 407
Powers:
Protestors beyond the barricades, 943
Right to protest, 623
Regulations, 1259
Resisting unlawful police action, 850
Role of detection in identification of offenders, 430
SUS and the police, 1063
Unauthorised weapons, 1247
USA, policeman's immunity, 302
POLITICS
General election: The manifestos reviewed, 405
Independence, and, 106
Political crimes and extradition, 482
POOL COMPETITIONS
Continuance order 1979, 318, 713
PORCELAIN
Restoring damaged, 103
POSSESSION
Lender in, liability to account, 334
Recovery by homeowners of, 291
POST OFFICE
Telephone tapping. *See* TELEPHONE TAPPING
PRACTICE
Abolition of indorsement of service on writ in Supreme Court, 439
Admiralty: form of writs, 292
Affidavits of service of writ by post or through letter box: forms, 445, 446
Amendment of documents, 1221
Anton Piller orders and the dishonest trader, 512
Chancery Division:
Motions: proposals for revision, 363
Orders for speedy trial, 157
Class actions and access to justice, 870
Commercial court procedure, 191
Companies Court chambers procedure: functions of chief clerk, 1048
Consumer Credit Act licensing, extended validity and revised fees, 707
County Court:
Bulk issue of summonses, 463
Issue of summonses, 463, 473
Divorce:
Petitioner's address for service, 417
Matrimonial causes (Costs) rules, 415, 1175
Employment Appeal Tribunal:
Listing of appeals, 239
Family Division:
Appeals from registrars, 239
Directions for trial of defended matrimonial causes, 11
Matrimonial causes costs rules, 415, 1175
Special procedures lists, 1255
House of Lords:
Case titles in criminal causes, 239
Leave to appeal out of time, 807
Petitions for leave to appeal, 439, 464
Taxation of costs in petitions for leave to appeal, 115
Immigration: applications under 1971 Act, 584
Judgment in default of defence: indorsement

on judgment, 516
Lodging agreed experts' reports, personal injury actions, 217
Master's summons, 756, 757
Orders directing periodical payments to child, 267
Setting actions down for trial, 756
Taxing office practice direction, 191, 515, 661
Third party procedure in the Supreme Court, 411
Use of postal facilities in Companies Court, 1047
PRECEDENT
Arbitration: exclusion agreement, 933
Credit unions:
Amendment of rules:
Application to record rules or, 1053
Complete, application to register, 1053
Declaration in support of, 1077
Partial, application to register, 1077
Appointment of receiver or manager, notice of, 1105
Approval of change of name, application for, 1053
Certificate of transfer of property, 1182
Change in situation of registered office, 1078
Charge:
Floating, notice relating to release of, 1237
Floating, notice or partial or complete satisfaction of, 1238
Notice of release relating to, 1210
Partial or complete satisfaction, notice of, 1237
Recording, application for, 1209
Copy of special resolution for conversion of company into credit union, 1157
Dissolution:
Declaration of assets, 1158
Declaration to accompany instrument of, 1181
Notice of order to set aside, 1182
Notice of proceedings to set aside, 1182
Inspection of books, application for, 1105
Inspection or special meeting, application for, 1105
Reference of dispute to registrar, 1209
Registration as, application for, 1029
Registration of special resolution for amalgamation, application for, 1106
Request to cancel registration, 1078
Special resolution for amalgamation, application for registration, 1106
Statutory declaration, 1238
Transfer of engagements:
Application for registration of special resolution, 1129
Declaration by officer accepting, 1130
Declaration to accompany application, 1129
Deeds of family arrangement, variation, disclaimer, 72
Family arrangements: deed of variation, 1005
Management of car parking spaces, 321
Originating application for possession under Case II, 121
Winding-up by court:
Affidavit of service of petition, 978
Affidavit in support of petition, 977
Notice of hearing of petition, 977
Winding-up petition, 953
PRESS
Cheque-book journalism, 1061
Press Council:
Statement, 623
24th Report, 871
Publication of hydrogen bomb details (USA), 1108
Soldiers of the Press, 820
PRICE COMMISSION. *See* COUNTER INFLATION
PRICES
Directive on food prices, 932
Food, prohibition of repricing amendment order, 662
Notification of increases revocation order, 612
Petrol prices display amendment regulations, 70
Practical problems arising from price marking bargain offers order, 815
Price marking, bargain offers amendment order, 662, 975
Safeguard for basic profits regulations, 297
PRISON
Amendment rules (Scotland), 1156
Disciplinary proceedings, rights of prisoners, 598
Prison discipline and the courts, 308
Prison statistics, 895
Prisons and penal priorities: May Committee report, 1085
Remand of girls, 11, 240
PRISONER
Disciplinary proceedings, rights in, 598
DIY resettlement, 1087
Parole: Board's 1978 annual report, 747
Remand: report, 919
Right of access to solicitor, 307
Some problems of early release, 258
PRIVACY
Data Protection Committee report, 1065
Jury-vetting. *See* JUROR
Telephone tapping. *See* TELEPHONE TAPPING
Unfair publication: Australian Law Reform Commission report, 1191
PRIVILEGE
Legal professional privilege: the new test, 698
PROBATION
Areas: Essex, 1156
PRODUCT LIABILITY
Defective products, liability for: EC Commission background report, 1233
Oklahoma long-arm statute, 717
Safe system of work, 99
PROPERTY
Matrimonial property and the constructive trust, 288
Shares: investment, 427
Tax, personal, USA, 641
Transactions voided in equity, 425
PUBLIC AUTHORITY
When public authorities fail, 282, 483
PUBLIC GOOD
Defence to obscenity, 299
PUBLIC HEALTH
Vaccine damage payments regulations, 441, 1206
PUBLIC INQUIRY
Big Public Inquiry: report, 771
Costs for objectors at, 677
Historic churches, for, 267
PUBLIC INTEREST
Freedom of information and the, 430
PUBLIC POLICY
Wrongdoer and, 37

Q

QUEEN'S BENCH DIVISION
Divisional Court: Applications under Immigration Act 1971, 584
Drawing up orders in, 756
Interlocutory matters (accident cases): counsel's fees, 1199
QUEEN'S COUNSEL
Appointments, 498
Conference fees: QBD interlocutory matters (accident cases), 1199
Should the Silk system continue? 555
QUEEN'S SPEECH
Government's legislative programme 1979-80, 515

R

RACIAL DISCRIMINATION
Discovery and confidentiality, 1086
Employment, in: discovery, 1173
Indirect discrimination and the Race Relations Act, 408
RAILWAY
The right lines, 380
RAPE
Sexual violence, 799
Wife, of, by husband, 332
RATING
Disabled persons: appeals to sheriff, 418
Rate rebate amendment regulations, 418, 1156, 1206
Valuation: appeal rules amendment (Scotland), 1206
RECEIVER
Powers of directors and receivers, 261
REDUNDANCY
Handling of redundancies variation order, 714
RENT
Rent (County Court Proceedings) (Case II) rules, 96
Rent rebates and allowances students regulations, 836
Rent rebate and rent allowance schemes regulations, 1154
Rent revision and tenant's improvements, 615
RESERVATION OF TITLE. *See* COMMERCIAL LAW
RESTRICTIVE COVENANT
Covenant "impeding some reasonable user", 523
Extinguishment, 236
REVENUE LAW
Background notes to the Finance Act 1979, 363
Budget proposals, 607, 608
Capital allowances. *See* CAPITAL ALLOWANCES
Capital gains tax. *See* CAPITAL GAINS TAX
Capital transfer tax. *See* CAPITAL TRANSFER TAX
Cars and petrol as benefits in kind, 855, 856
Computerised tax information, 507
Development land tax leaflets, 69, 167
Fiscal reforms in Spain, 783
Index of Statements of Practice, amendments, 831
Life assurance premium relief, 96, 168
Married women, discrimination and tax, 1228
Newstead v Frost examined, 487
Occupational pension schemes: booklet, 879
Payments to destroy a trading disadvantage, 1211
Personal taxation leaflets, 168
Petroleum tax:
Changes, 610
Collection arrangements, 1199
Remunerative shares: emoluments from employment, 897
Retirement annuity relief:
Investigation settlements, 1227
Practice, 1256
Residence and domicile, 752
Statistics, 974
Search, seizure and abuse of power, 822
Stock relief, 610, 631
Tax aspects of plant leasing, 275
Taxation and breaches of trust, 848
To trade or not to trade, 1107
Traders' golden handshakes, 32
What protection individual liberties: search warrants, 1246
ROAD TRAFFIC
Bicycle. *See* BICYCLE
Carrier. *See* CARRIER
Cases, 729
Criminal driving, 323
Drivers:
Drinking drivers, 59, 1115
Hours (Keeping of Records) amendment regulations, 97
Driving offences. *See* DRIVING OFFENCES
Ignoring a policeman's signal, 224
International Carriage of Perishable Foodstuffs Act 1976, commencement, 466
International passenger services amendment regulations, 689
Legal services: report, 961, 962, 963
Minibus. *See* MINIBUS
Motor vehicles. *See* MOTOR VEHICLE
Offences: working party on, 1115
Passenger Vehicles (Experimental Areas) Designation Order 1977 (Variation and Extension of Duration) order, 975
Self-service filling station, prohibition

against, USA, 1109
Sister Susie's verbals, 696
Zebra crossings, 513
ROMALPA CLAUSE. *See* COMMERCIAL LAW
ROYAL COMMISSION
Criminal procedure:
Haldane Society, evidence of, 723
Legal services:
Main recommendations, 574
Personal injury:
Pearson recommendations: a case in point, 622

S

SAINT LUCIA
Constitution order, 150
Termination of association with UK order, 150
SALE OF GOODS
Reservation of title. *See* COMMERCIAL LAW
Weights and Measures Act 1979, effect, 1249
SAVINGS BANKS
National Savings Bank investment deposits order, 72
Registrar's fees amendment warrant, draft, 1259
Trustee Savings Banks. *See* TRUSTEE SAVINGS BANK
SCOTLAND
Acquisition of Land (Rate of Interest after Entry) regulations, 41, 612, 975
Agricultural holdings specification of forms instrument, 736
Agricultural records amendment regulations, 736
Amendment of fees in record office, 736
Community Service by Offenders (Scotland) Act 1978, commencement, 70
Criminal legal aid fees, 19, 196
Criminal prosecutions: Lord Advocate's Press statement, 1049
End of emergency in courts, 539, 563
European Assembly constituencies (Scotland) order 1978, 97
Firearms variation of fees order, 195
Firearms variation of fees revocation order, 440
Foreclosure, 35
High Court of Justiciary. *See* HIGH COURT OF JUSTICIARY
Inaccurate recording of legal contracts, 1256
Installation of Law Officers, 519
Legal advice and assistance financial conditions regulations, 273, 440, 1155, 1229
Legal Aid Act 1979, commencement, 761
Legal aid financial conditions regulations, 274, 440, 1155, 1229
Local elections amendment rules, 688
Marriage fees regulations, 274
Pensions appeal tribunals amendment rules, 196
Prison amendment rules, 1156
Rate rebate amendment regulations, 1206
Registers and records fees order, 975
Rent rebate and rent allowance schemes regulations, 1154
Representation of the people amendment regulations, draft, 1206
Road Traffic Act 1974, commencement, 174
Scotland Act 1978 (Referendum) order, 120
Scottish land court rules, 441
Sheriff Court. *See* SHERIFF COURT
Standing junior counsel appointments, 328
Registration of births, deaths and marriages fees regulations, 274
Valuation appeal rules amendment, 1206
SCOTTISH LAND COURT
Rules, 441
SECURITIES
Exchange control, exemption order, 1204
Particulars of dealing in securities and of unit trusts: lists of dealers and schemes, 931
Stock Exchange (Completion of Bargains) Act 1976, commencement, 150
Stock transfer (Addition of Forms) order, 346
SECURITY
Official information, Law Society memorandum, 747
Official secrets, 1063
Official Secrets Act, prosecution under, 315
Official secrets and the rule of law, 1137
Private security: the insecurities of security, 1190
SEEDS
Vegetable seeds regulations, 714
SENTENCING
Australian Law Reform Commission report, 699
Discretion and consistency: Home Office report, 1218
Drug offender, of: law and practice, 899
Juveniles, 1093
Last look at section 3, 88
Passing sentence on facts, 824
"Treatment model", 453
SERVICEMAN
Disclosure of addresses by Government Departments, 655
Naval, military and air force, etc, disablement and death pensions amendment order, 1155
SETTLEMENT
Annuities under trusts: CTT, 616
Discretionary trust: capital transfer tax, 610
Exchange control exemption order, 1205
Secret trust, evidence in support of, 1080
SEX DISCRIMINATION
Discovery and confidentiality, 1086
Employment, 721, 739
End to the law of chivalry, 1038
Equal rights amendment and anti-trust, USA, 550
Legal profession, in, 1143
Sex Disqualification (Removal) Act: 60 inglorious years, 1088
SEXUAL OFFENCES
Consent to sexual intercourse, 918
Incest: *R v Bedford,* 1219
Law Reform Commission of Canada annual report, 1139
Rape of wife by husband, 332
Sexual violence, 799
SHARES
Dividend controls: transitional arrangements, 608
Insider dealings: consultative document, 1071
Property shares as an investment, 427
Remunerative shares: emoluments, 897
SHERIFF
Fees amendment order, 1206
SHERIFF COURT
Appeals under Rating (Disabled Persons) Act 1978, 418
Appeals under the Licensing Act 1976 Amendment Act 1979, 1259
Commissary business, amendment, 1206
Sheriff appointments, 31, 128, 949, 960
Revocation of emergency provisions, 613
Sheriff clerks and auditors, amendment of fees, 374
Shorthand writers' fees, 857, 997
Summary Cause Rules amendment, 19
Suspension of business, 297
SHIP
Stated owned, immunity of, 440
Treasure reef: salvage and wrecks, 1060
SHOP
Regulations, 1206
Shops (Northern Ireland) order, 71
Sunday trading, 283
SHORTHAND WRITER
Fees:
Court of Session, 857, 997
Sheriff Court, 857, 997
SILVER
Investment in, 667
SMALL CLAIMS
Another inquest: Consumer Council report, 1014
Costs rules: some developments, 386
London Small Claims Court, 723
State and local courts in USA, 550
SOCIAL SECURITY
Attendance allowance. *See* ATTENDANCE ALLOWANCE
Benefits:
Claims and payments amendment regulations, 737, 1207
Claims and payments regulations, 635
Computation of earnings regulations, 49
General benefit amendment regulations, 904
Overlapping regulations, 374, 613
Persons abroad, amendment regulations, 466, 1207
Unemployment, sickness and invalidity benefit, amendment regulations, 762
Up-rating amendment order, 1128, 1207
Up-rating order, 689, 837
Up-rating regulations, 1207
Categorisation of earnings regulations, 49
Child benefit. *See* CHILD BENEFIT
Contributions:
Amendment regulations, 50, 374
Earnings factor regulations, 662
Earnings limits amendment regulations, 49
Mariners amendment regulations 1978 (draft), 49
Re-rating order 1978 (draft), 49
Re-rating, consequential amendment regulations, 150
Determination of claims and questions amendment regulations, 975
Earnings related addition to widow's allowance, special provisions regulations, 1128, 1207
Family income supplement and the new poverty trap, 800
Family income supplements computation regulations, 813, 1128, 1207
Family income supplements general amendment regulations, 298
Giving with one hand, 970
Hospital in-patients amendment regulations, 319
Industrial injuries prescribed diseases amendment regulations, 635, 881
Maximum additional component amendment regulations, 1207
Northern Ireland order, 418
Overlapping benefits and miscellaneous amendments regulations, 374
Pneumoconiosis, Byssinosis and Miscellaneous Diseases Benefit (Amendment) scheme, 837
Revaluation of earnings factors order, 563, 613, 761
Social Security Act 1979, commencement, 837
Social Security Pensions Act 1975:
Benefit (Transitional) regulations, 374
Commencement order, 298, 498, 838
Supplementary benefit. *See* SUPPLEMENTARY BENEFIT
Unemployment benefit: new scheme, 903
Unemployment, sickness and invalidity benefit amendment regulations, 813, 814
Widow's benefit and retirement pensions regulations, 662
Widow's benefit, retirement pensions and other benefits (Transitional) regulations, 662
Workmen's compensation supplementation amendment, scheme, 998
SOCIETY FOR COMPUTERS AND LAW
Computer-assisted legal information retrieval, 203
SOLICITOR
Accounts: Accountant's Report Rules 1975, 762
Announcements in Press, etc: Council statement, 1023
Competence and confidence, 986
Complaints against solicitors, 553
Costs: lessons to be learned from the *Wilkinson* case, 1248
Criminal legal aid fees, Scotland, 196
Day in the life of a managing clerk, 56
Dickens on solicitors and their clerks, 1267
Dracula: considerations on purchase of English property, 1269
Fees (Scotland), 1204
Improving the image, 554
My Uncle Sam, 1084
Prisoner's right of access to, 307

Register of solicitors (Scotland): fee for inclusion on, 1204
Remuneration and charges, 1140
Rights of audience:
Crown Court, in, 206
Higher courts, in, 1116
Royal Commission on Legal Services: recommendations, 964, 988
Satisfaction and solicitors' services, 129
Self-help scheme: Restrictiveness v Innovation, 454
Setting up a legal aid practice, 911, 935, 979, 1007, 1031, 1055
Should solicitors advertise? 1013
Sole practitioner: declining species, 356
SOUTH AFRICA
Double taxation relief, 42, 583
SOUTHERN RHODESIA
Exchange control exports order, 1128
Rhodesian trade sanctions, removal, 1255
SPAIN
Dicing with Spanish property, 1001
Exchange control relaxations in Spain, 1231
Fiscal reforms, 783
Fugitive criminal, 70
Legislative technique, 1170
New legal order in, 368
Personal bank accounts in, 145
Property investment, 179
SPECIAL COMMISSIONS
Special commissions and constitutional principles, 158
STATE IMMUNITY
Austria, 440
Overseas territories order, 440
STATUTE LAW
Judicial lawmaking: creativity and wordbending, 354
Legislative technique, 748
STOCK EXCHANGE
Stock Exchange (Completion of Bargains) Act 1976, commencement, 150
STOCK MARKET
Future outlook, 695
STUDENT
Rent rebates and allowances regulations, 836
Students and the Rent Acts, 646
SUPERANNUATION
Children's pensions, earnings limit order, 688
Judicial offices amendment rules, 688
SUPPLEMENTARY BENEFIT
Appeal tribunal representation, 107
Determination of requirements regulations, 881
SUPREME COURT
Abolition of indorsement of service on writ, 439
Affidavits of service of writs: forms, 445, 446
Drawing up orders in Queen's Bench Division, 756
Fees amendment order, 814
Funds, rate of interest, 196
Master's summons, 756, 757
Non-contentious probate fees, 19
Rules, 120, 441, 522
Setting actions down for trial, 756
Taxing office: Master's practice notes, 191, 515
Third party procedure, 411
Wills (Deposit for Safe Custody) regulations, 19

T

TECHNOLOGY
Transfers to developing nations, 309
TELEPHONE TAPPING
Law, and the, 229
Practice of, 291
Tapping telephones in the United States, 575
TELEVISION
Divorce 10 years on: series, 671
Trial by, 894
TERRORISM
Designation of countries order, 466
Emergency powers, 259
Extradition, internationally protected persons order, 441
Internationally Protected Persons Act 1978, commencement, 441
Internationally protected persons order, 563
Legal control, 870
Prevention continuance order, 274
Prevention, supplemental temporary provisions amendment order, 298
Prevention, temporary provisions amendment order, 688
THEFT
Aspects of the Theft Act 1968, 946
Dismissal from employment for, 591
Intent to steal and the impossibility rule, 1167
Proof that goods are stolen, 1018
Stealing information, 967
THORPE, JEREMY
Lessons of the Thorpe case, 621, 798
TIMES, THE
Recipe for anarchy, 107
Why are we waiting? 107
TORT
Place of the tort: a legal change of scene, 1067
TOWN AND COUNTRY PLANNING. *See* PLANNING
TRADE
Rhodesian trade sanctions, removal, 1255
To trade or not to trade, 1107
Traders' golden handshakes, 32
TRADE DESCRIPTION
Motor vehicles designation of approval marks, 49
Weights and Measures Act 1979, effect, 1249
TRADE DISPUTE
In furtherance of a, 354
Trade disputes and immunity, 1062
TRADE UNION
Certification officer amendment of fees regulations, 1208
Judiciary and the trade unions, 431
Picketing. *See* PICKETING
Recruitment activities: Government proposals, 1095
TRANSPORT
London. *See* LONDON TRANSPORT
TREE
Preservation orders, injunction to restrain breach of, 579
TRIAL
Competence of trial lawyers in USA, 478
Orders for speedy trial, Chancery practice, 167
TRIBUNALS
Costs of objectors at public inquiries, 677
Fees for inquiries, 564
Royal Commission on Legal Services: recommendations, 965
Vaccine damage tribunals order, 689
TRUST. *See* SETTLEMENT
TRUSTEE
Compromise, trustees' power to, 805
Increasing trustees remuneration, 501
Taxation and breaches of trust, 848
TRUSTEE SAVINGS BANKS
Amendment regulations, 150, 346
Funds for the banks for savings orders, 613, 1025
Interest: end of tax exemption, 1025
Life annuity amendment regulations, 612
Post Office Register amendment regulations, 613
Trustee Savings Banks Act 1976, commencement, 1259
TURKS AND CAICOS ISLANDS
Internationally protected persons order, 441
State immunity order, 440

U

UNFAIR DISMISSAL
Calculating the quantum of damages, 882, 887
A gamekeeper's rights and duties, 256
Employment Bill, 1257
Increase of compensation limit order, draft, 1208
Variation of qualifying period order, 714, 814
UNIT TRUSTS
Investment in, 571
Management charges, Department of Trade's control, 546
UNIVERSITY
Jurisdiction of the university visitor, 347, 949
USA
Accountant, use of word, 551
Agatha Christie's exploitation, 302
Annual report, 478
Commodity future trading syndicates, 378
Competence of trial lawyers, 478
Constitutional reform, 283
Counsel, right to, 1108
Death: right to die, 77, 1108
Discriminatory airline policy, 77
Do lawyers do more harm than good? 1040
Double taxation convention, 47, 1203
Equal rights amendment and anti-trust, 550
Ethical conduct of lawyers, 478
Federal judicial center, 478
Integrated Bar, 455
Joseph Story: the American Blackstone, 1244
Jury problems in the USA, 1016
Landlord-tenant disputes, 717
Lawyers as defendants, 478
Legal aid: comparison with British legal aid, 724, 1220
Medical malpractice claims, 378
Medical malpractice panel, validity, 551
Micro-organisms, are they patentable? 1109
National center of State courts, 478
National Legal Resource Center for Child Advocacy and Protection, 641
Over the counter law, 77
Pearl in the oyster, 302
Personal property tax, 641
Police abandonment of children of highway: US Constitution, 717
Policeman's immunity, 302
Product liability: Oklahoma long-arm statute, 717
Professional Liability Review Board: medical malpractice claims, 550
Publication of hydrogen bomb details, injunctions against, 1108
Recovery of maintenance order, 1155
Selection of Federal judges, 717
Self-service filling station, 1109
Small claims in State and local courts, 550
Supreme Court jurisdiction, 550
Telephone tapping, 573
Trial by television, 894
Unmarried couples: some complications, 957

V

VACCINE DAMAGE
Payments regulations, 441
Payments amendment regulations, 1206
Tribunals order, 689
VALUE ADDED TAX
Bills of costs, on, 661
Cars, 790
Exemption, 319
General order, 662
Repair and restoration of buildings, 292
Supplies by retailers amendment regulations, 319
Unification of rates, 610
VAT publicity, 1147
VENEZUELA
Double taxation relief, 48, 345

W

WALES
Devolution, referendum forms order, 150
Devolution, referendum, order, 120

Draft elections (Welsh Forms) regulations, 373
WARD OF COURT
Enforceability of orders: wardship of court and the chess game, 84
Wardship and kidnapping, 873
Wardship and natural justice: *Bain v Wood*, 382
WEIGHTS AND MEASURES
Alcohol tables regulations, 346
History of the mile, 51
Local standards periods of validity regulations, 1208
Testing and adjustment fees regulations, 1208
Weights and Measures Act 1979: Commencement, 1050
New law, new directions, 1249
WEST GERMANY
Company structures: advice for the smaller company, 467, 585, 683
Credit insurance: Draft EEC directive, 998
Defamation, law of, 785
WIFE
Lending after the *Williams & Glyn's* case, 1159
Rape by husband, 332
Wives "in actual occupation", 700
WILL
Administration of estates order, Northern Ireland, draft, 1076
Gift by will to friends, 742
Revocation:
Divorce, on, 556
Marriage, on, 547
Wills deposit for safe custody regulations, 19
WINDING-UP
Amendment rules, 273, 1259
Court, by:
Affidavit in support of petition, 977
Affidavit of service of petition, 978
Notice of hearing of petition: precedent, 977
Procedure, 953
Just and equitable ground, 577
Petition: precedent, 953
Use of postal facilities in Companies Court, 1047
WIRELESS TELEGRAPHY
Prescribed forms regulations, 613

Y

YOUNG OFFENDER
Fines and compensation due from, 779
Last look at section 3, 88
New approaches to juvenile crime: regimes and reconviction, 647
Treatment, 2

Z

ZAMBIA
The People v Speaker of the National Assembly, ex parte Nkumbula, 79

Law Reports

AGRICULTURAL WORKER
Gamekeeper—
Earl of Normanton v Giles, 1259
AUCTION
Vendor's duty of care—
A P Hurley v Dyke and Others, 364
BLASPHEMOUS LIBEL
Intention—
R v Lemon, R v Gay News Ltd, 218
CAPITAL GAINS TAX
"Control" of company—
Floor v Davis (Inspector of Taxes), 516
"Due under a covenant made by any person"—
Rank Xerox Ltd v Lane (Inspector of Taxes), 1151
Employer's rights under service agreement—
O'Brien (Inspector of Taxes) v Benson's Hosiery (Holdings) Ltd, 1097
Sale of land with development value—
Watkins v Kidson (Inspector of Taxes), 659
CHILD IN CARE
Resumption of parental care—
London Borough of Lewisham v Lewisham Juvenile Court Justices and Another, 339
CHILDREN
Care and control order—
Bain v Wood and Others, 365
COMPANY
Assignment of book debts—
Lloyds and Scottish Finance Ltd v Cyril Lord Carpet Sales Ltd and Others, 366
COMPULSORY PURCHASE
Compensation for extinguishment of easements—
Blandrent Developments Ltd v British Gas Corporation, 659
CONTEMPT OF COURT
Witness's identity—
Attorney-General v Leveller Magazine Ltd and Others, 140
CORPORATION TAX
Lump sum payment for rent reduction—
Tucker (Inspector of Taxes) v Granada Motorway Services Ltd, 539
COVENANT AGAINST ASSIGNMENT
Adler upheld—
Bocardo SA v S & M Hotels Ltd, 788, 909
CRIMINAL LAW
Entrapment no defence—
R v Sang, 757
Power to vary sentence—
Commissioners of Customs and Excise v Menocal, 541
CRIMINAL LAW ACT 1977
Conspiracy to steal—
R v Duncalf and Others, 492
CRIMINAL LIBEL
Committal proceedings—
Gleaves v Deakin and Others, 395
DAMAGES FOR PERSONAL INJURY
Quantum—
Lim Poh Choo v Camden & Islington Area Health Authority, 656
DISCOVERY
Legal privilege—
Waugh v British Railways Board, 710
Production contrary to public interest—
Burmah Oil Co Ltd v Bank of England, 1124
Recognition: talaq divorce—
Quazi v Quazi, 1177
EQUAL PAY
Comparison with former employee—
Macarthys Ltd v Smith, 808
ESTATE DUTY
Accumulations under trust—
Baird and Others v Lord Advocate, 247
HIGHWAY
Definitive map as conclusive evidence—
Suffolk County Council v Mason and Others, 391
HOMELESS PERSONS
No local connection—
R v Bristol City Council, ex parte Browne, 733
HOUSING ASSOCIATION
Powers—
Peabody Housing Association Ltd v Green and Others, 67
INCOME TAX
Annual payments "made for sufficient and valuable consideration"—
IRC v Plummer, 1147
Tax advantage—
Williams v Inland Revenue Commissioners, 833
INDUSTRIAL TRIBUNALS
Discovery of confidential documents—
Nassé v Science Research Council, Vyas v Leyland Cars (BL Cars Ltd), 1098
LANDLORD AND TENANT
Case 10 possession order: joint owners—
Tilling v Whiteman, 267
Member of tenant's family—
Carega Properties SA (formerly Joram Developments Ltd) v Sharratt, 707
LEGAL AID
Retrospective effect—
R v Rogers, 169
LIMITATION PERIOD
Infant's claim for personal injuries—
Tolley v Morris, 518
Requirement of prejudice—
Walkley v Precision Forgings Ltd, 520
LIQUIDATION
Liability for mutual guarantee—
Ford & Carter Ltd v Midland Bank Ltd and Another, 543
LOCAL GOVERNMENT BOUNDARY
Electoral equality—
London Borough of Enfield v Local Government Boundary Commission for England, 1178
MORTGAGEE
Wife's interest in matrimonial home—
Williams & Glyn's Bank Ltd v Brown, Williams & Glyn's Bank Ltd v Boland, 270
NUISANCE
Landowner liable for natural use of land—
Leakey and others v National Trust, 781
PASSING OFF
Bollinger case approved—
Erven Warnik Besloten Vernootschap and Victoria Wine Co Ltd v J Townend & Sons (Hull) Ltd and H Keeling & Co, 631
PERSONAL INJURY
Damages for loss of amenity—
Walker v John McLean & Sons Ltd, 294
PRISON DISCIPLINARY PROCEEDINGS
Rules of natural justice—
R v Hull Prison Visitors, ex p St Jermain (No 2), 679
REDUNDANCY
Continuity of employment—
Secretary of State for Employment v Globe Elastic Thread Co Ltd, 708
Entitlement to unemployment benefit—
R v National Insurance Commissioner, ex parte Stratton, 93
REVENUE
Search and seizure—
IRC v Rossminster Ltd, 972, 1260
SALE OF GOODS
Reservation of title—
Bond Worth Ltd, Re, 220, 248
Borden UK Ltd v Scottish Timber Products Ltd, 832
SALE OF LAND
Abandonment of contract—
MEPC Ltd v Christian-Edwards and others, 1150
Damages in substitution for specific performance—
Johnson v Agnew, 292
Formation of contract—
Gibson v Manchester City Council, 268
SETTLEMENT
Power of appointment—
Vestey v Inland Revenue Comrs, 1200
SEX DISCRIMINATION
Pension scheme—
Worringham and Humphreys v Lloyds Bank Ltd, 1026

SOLICITOR
Expense of time—
R v Wilkinson, 1230
STOCKBROKER
Negligent advice—
Briggs v Gunner and Another, 116
TIME CHARTERPARTY
Waiver—
China National Foreign Trade Transportation Corporation v Evlogia Shipping Co SA of Panama, The "Mihalios Xilas", 731
TRADE DISPUTE
Interlocutory injunctions—
NWL Ltd v Nelson and another, NWL Ltd v Woods, 1073
TRADE UNION
ACAS report—
United Kingdom Association of Professional Engineers v Advisory Conciliation and Arbitration Service, 91
In furtherance of a trade dispute—
Associated Newspapers Group and Others v Wade, 393
Right of audience—
Engineers' and Managers' Association v ACAS and United Kingdom Association of Professional Engineers, 611
WATER SUPPLY
"Necessary mains"—
Royco Homes Ltd v Southern Water Authority, 1202

Case Notes

ACCESS PROCEEDINGS
Psychiatrist's report—
Noble v Robert Thompson & Partners, 998
AGENCY
Commission—
Williams v Letraset International Ltd, 760
Manager of ship—
Compania Financiera Soleada SA v Hamoor Tanker Corporation Inc, 812
AGENT
Solicitor's authority—
Re Peek Winch & Tod Ltd, 494
AGRICULTURAL TENANCY
"Eligible person"—
Jackson v Hall, 118
ARBITRATION
Breach of arbitration clause—
Mantovani v Carapelli SPA, 1027
Jurisdiction of arbitrator—
Termarea SRL v Rederiaktiebolaget Sally, 172
Refusal to stay action—
Carvalho v Hull Blyth (Angola) Ltd, 860
Power to award interest—
Tehno-Impex v Gebr Van Weelde Scheepvaartkantoor BV, 1263
BANKER'S COMMERCIAL CREDIT
Illegality—
United City Merchants (Investments) Ltd v Royal Bank of Canada, 317
Late payment—
Ozalid Group (Export) Ltd v African Continental Bank Ltd, 295
BANKING
Stopped order—
Barclays Bank Ltd v W J Simms & Son & Cooke (Southern) Ltd and Sowman, 835
BANKRUPTCY
Hearing of application—
Wolsey-Neech v Chantry Mount and Hawthorns Ltd, 811
Validity of petition—
Re Lindsey, a Debtor, 545
BILL OF EXCHANGE
"Pay cash or order"—
Gader v Flower, 1266
Validity—
Korea Exchange Bank v Debenhams (Central Buying) Ltd, 250
Maxform SPA v B Mariani & Goodville Ltd, 465
BILL OF LADING
Contracting party—
The "Venezuela", 734
Jurisdiction clause—
The Kislovodsk, 929
BUILDING CONTRACT
Implied term—
Test Valley Borough Council v Greater London Council, 930
CAPITAL ALLOWANCES
"War risk"—
Costain-Blankevoort (UK) Dredging Co Ltd v Davensport (Inspector of Taxes), 21
CAPITAL GAINS TAX
Trust fund—
Roome and Another v Edwards (Inspector of Taxes), 397
CARRIAGE BY AIR
Transit of animals—
Air-India v Wiggins, 1203
CIVIL PROCEDURE
Joinder of party—
Liff v Peasley and Spinks, 1236
Set off—
British Anzani (Felixstowe) Ltd v International Marine Management (UK) Ltd, 40
Triable issue—
Gestions Commerciales et Financières SA v Smith, 687
COMMONS REGISTRATION ACT 1965
Waste land—
Rush Green, Harleston, Suffolk, Re, 810
COMPANY
Loan to purchase shares—
Fowlie v Slater, 465
Receiver's duty—
Smiths Ltd v Middleton, 1028
Share issue—
E Pearse & Co Ltd v Oliver, 372
Winding-up—
Re Bushey Motors Ltd, 420
Re Jessel Securities Ltd, 171
Re Mesco Properties Ltd, 909
COMPULSORY PURCHASE
Notice of order—
George v Secretary of State for the Environment, 420
Quantification of claim—
Trustees for Methodist Church Purposes v North Tyneside Borough Council, 316
CONFLICT OF LAWS
Divorce—
Viswalingham v Viswalingham, 879
Foreign divorce—
Quazi v Quazi, 495
Sovereign immunity—
"I Congreso del Partido", 1265
CONSTITUTIONAL LAW
Illegitimate child—
Minister of Home Affairs and Minister of Education v Fisher, 789
CONTEMPT OF COURT
Local valuation court—
Attorney-General v British Broadcasting Corporation, 496
Publication of article in newspaper—
Attorney-General v Times Newspapers Ltd, 491
Use of wrong form—
Palmer v Townsend, 1028
Veterinary surgeon's premises—
Wilkinson, Gale and Hall v Middlesbrough Borough Council, 590
CONTRACT
Abortion operation—
Sciuriaga v Powell, 564
Concluded agreement—
Rust v Abbey Life Assurance Co Ltd and Prentice, 495
Inspection of oil—
International Petroleum Trading Co Sociedad Limitada v Caleb Brett & Son Ltd and Others, 909
Parties' intention—
Helio Mirror Co Ltd v ASCO SPRL, 193
"Shared loss"—
Cia Banca de Panama SA v George Wimpey & Co Ltd, 272
Whether agreement concluded—
Vickers Shipbuilding Group Ltd v Westland Helicopters Ltd, 711
COPYRIGHT
Infringement—
L B (Plastics) Ltd v Swish Products Ltd, 172
Ravenscroft v Herbert, 372
Record shop—
Performing Right Society Ltd v Harlequin Records Ltd, 118
COSTS
Competing claims—
Moss Kaye & Roy Frank & Co v Jones, Alan Sadick & Co v Jones, 931
Error of principle—
Polydor Ltd v Sandhu and British Airways Board, 296
CRIMINAL LAW
Arson—
R v Stephenson, 612
Earnings of prostitution—
R v Farrugia, Borg, Agius and Gauchi, 566
Misconduct in public—
R v Dytham, 836
Security area—
Ten Cheng Poh v The Public Prosecutor, Malaysia, 18
CRIMINAL PROCEDURE
Cross-examination of rape victim—
R v Mills, 50
Entrapment—
R v Sang, 118
Jurisdiction—
R v Robinson, 1027
Summons—
R v West London Justices, ex parte Klahn, 271
CTT
Exempt securities—
Von Ernst & Cie SA and Others v Inland Revenue Commissioners, 442
DAMAGES
Trespass to residential property—
Swordheath Properties Ltd v Tabet and Others, 40
DIVORCE
Children of family—
Rowe v Rowe, 465
Declaration of satisfaction—
Ashley v Ashley, 194
Financial provision—
Chand v Chand, 15
De Lasala v De Lasala, 566
Special procedure—
Day v Day, 11
Sims v Sims, 546
EDUCATION
Closure of schools—
Meade v Haringey London Borough Council, 372
Social priority school—
Lewis v Dyfed County Council, 16
ELECTION
Film of candidate—
Marshall v British Broadcasting Corporation, 687
EMPLOYERS' LIABILITY INSURANCE
Course of employment—
Paterson v Costain & Press (Overseas) Ltd, Poole & London Assurance Co Ltd, 811
EMPLOYMENT
Confidential reports—
British Railways Board v Natarajan, 147
"Employee"—
Parsons v Albert J Parsons Ltd, 22
Overtime payments—
Re RHM Foods Ltd, 464
Redundancy payment—
Nottinghamshire County Council v Lee, 589
Unfair dismissal—
Land v West Yorkshire Metropolitan County Council, 272
Monie v Coral Racing Ltd, 17
Sturdy Finance Ltd v Bardsley, 50
Sweetlove v Redbridge & Waltham Forest Area Health Authority, 273
EQUITY
Imperfect gift to mistress—
Pascoe v Turner, 15
ESTATE DUTY
Benefit of deceased—
Inland Revenue Commissioners v Kitson, 149
EVIDENCE

Admissibility—
R v Pearce, 760
R v Smith, 835, 862
Handwriting expert—
Harmony Shipping Co SA v Saudi Europe Line Ltd, 862
Privilege—
Burmah Oil Co Ltd v Governor of Bank of England, 148
FAMILY PROVISION
Adult son—
Re Coventry, deceased, 22, 444
Common law wife—
CA v CC, 21
Re Haig (deceased): Powers v Haig, 420
FIRE INSURANCE
Measure of loss—
Leppard v Excess Insurance Co Ltd, 443
FOOD AND DRUGS ACT 1955
Defence—
Dover District Council v C R Barron Ltd, 880
GAMING
Revocation of certificate—
R v Gaming Board of Great Britain, ex parte Fenton, Mills and Wood, 148
GUARANTEE
Sovereign immunity—
Uganda Co (Holdings) Ltd v Government of Uganda, 17
HABEAS CORPUS
Second application –
Ex parte Tarling, 117
HOUSING
"Back to back" houses—
Chorley Borough Council v Barrett Developments: North West Ltd, 810
Statutory duty—
Thornton v Kirklees Metropolitan District Council, 296
INCOME TAX
Child allowance—
Aspden (Inspector of Taxes) v Baxi, 419
Cleaning of clothes—
Ward (Inspector of Taxes) v Dunn, 50
"Emolument"—
Jenkins v Horn (Inspector of Taxes), 444
Newspaper articles—
Alloway v Phillips (Inspector of Taxes), 444
No return—
Napier v Inland Revenue Commissioners, 17
Particulars of unidentified transactions—
Essex and Others v Inland Revenue Commissioners and Another, 564
Profits—
White (Inspector of Taxes) v G and M Davis (a firm), 296
Realisation of gain—
Yuill v Wilson (Inspector of Taxes), 95
"Rent"—
T & E Homes Ltd v Robinson (Inspector of Taxes), 171
INJUNCTION
"Mareva" type—
Third Chandris Shipping Corporation, Western Sealane Corporation and Aggelikai Ptera Compania Maritima SA v Unimarine SA, 687
Passing off—
Mothercare Ltd v Robson Books Ltd, 317
Trespass to land—
John Trenberth Ltd v National Westminster Bank Ltd, 566
INSURANCE
Contract of insurance—
Medical Defence Union Ltd v Department of Trade, 13
JUDGMENT
Rate of interest—
Cia Barca de Panama SA v George Wimpey & Co Ltd, 1264
LAND CHARGES ACT 1925
Estate contract—
Green v Green, 496
LAND COMPENSATION
New road—
Barrett v Secretary of State for Transport, 590
LANDLORD AND TENANT
Forfeiture of lease—
Old Grovebury Manor Farm Ltd v W Seymour Plant Sales Ltd and Armstrong, 419, 1003
Interim rent—
Re 27B Sloane Square, London W1, 497
Occupation of evicted wife—
Hoggett v Hoggett and Wallis, 441, 454
Protected tenancy—
Guppy v O'Donnell, 930
St Catherine's College v Dorling, 735
Rent review—
GREA Real Property Investments Ltd v Williams, 466
Right of mortgagee—
Quennell v Maltby, 21
LANDLORD AND TENANT ACT 1954
New tenancy—
Polyviou v Seeley, 860
LICENSING
"Special occasion"—
Martin v Spalding, 682
LOCAL GOVERNMENT
Pension—
West Midlands County Council v Maudsley, 442
LOTTERIES
"Game ticket"—
Imperial Tobacco Ltd and Imperial Group Ltd v Attorney-General, 250, 316
MENTAL HEALTH ACT
Consent—
B v B (mental health patient), 951
MONEYLENDING
Temporary loans—
Offen v Smith, 22
NEGLIGENCE
Damages—
Johnson v London Transport Executive, 810
NUISANCE
Oil refinery—
Allen v Gulf Oil Refining Ltd, 734
PARTNERSHIP
Partner's duty of care—
Winsor v Schroeder, 1266
PLANNING
Blight notice—
Wyse v Newcastle-under-Lyme Borough Council, 1263
Grant of permission—
Attorney-General v Borough Council of Taff Ely and Others, 494
Stop notice—
Scott Markets Ltd v London Borough of Waltham Forest, 397
POST OFFICE
Damage to cable—
Post Office v Hampshire County Council, 249
PRACTICE
Admission—
Rankine v Garton, Sons & Co, 443
RACE RELATIONS
Bar examinations—
Ghaffer v Council of Legal Education, 1264
RATING
Aircraft maintenance base—
British Airways Board v Ridgeon, 681
Bakery—
Cumber (Valuation Officer) v Associated Family Bakers (South West) Ltd, 759
Defect in building—
Chawner v Terry, 789
Hardship—
Windsor Securities Ltd v Liverpool City Council, 117
Launderette—
Vesta Launderettes Ltd v Smith (Valuation Officer), 880
Nursing home—
Leicester City Council v Nuffield Nursing Homes Trust and Hewitt: Valuation Officer, 859
Unoccupied premises—
London Borough of Brent v Ladbroke Rentals Ltd, 929
REAL PROPERTY
Effect of charge—
Cedar Holdings Ltd v Green and Green, 545
REDUNDANCY
Trial period—
Turvey v C W Cheney & Son Ltd, 15
RENT (AGRICULTURE) ACT 1976
Security of tenure—
Skinner v Cooper, 295
RIGHT OF WAY
Prescription—
Ironside v Barefoot, 171
ROAD TRAFFIC
"Accident"—
Chief Constable of the West Midlands Police v Birmingham, 149
Application for licence—
Licensing Authority for the North West Traffic Area v Brady, 712
Breath test—
R v Carpenter, 810
Disqualification—
R v Fenwick, 681
Obliteration of white lines—
Bird v Pearce, Bird and Somerset County Council, 681
Oversize vehicle—
Patterson v Redpath Brothers Ltd, 193
Refusal to provide specimen—
Alcock v Read, 711
Working 'day—
Green v Harrison, 734
SALE OF GOODS
Agent or principal—
Limako BV v Hentz & Co, 272
Carrying charges—
Fratelli Moretti Spa v Nidera Handelscompagnie BV, 861
"Clean" bill of lading—
M Golodetz & Co Inc v Czarnikow-Rionda Co Inc, 1262
Contractual terms—
Spray Processes Ltd v Manro Products Ltd, 94
Defective documents—
SIAT di del Ferro v Tradax Overseas SA, 584
Default—
Bunge Corporation v Usines de Stordeur SA, 148
Frustration—
Congimex SARL (Lisbon) v Continental Grain Export Corporation (New York), 39
Merchantable quality—
Jeyes Group Ltd v Coalite & Chemical Products Ltd, 589
Right to trace—
Borden (UK) Ltd v Scottish Timber Products Ltd, 21
Tender of documents—
Alfred C Toepfer v Lenersan-Poortman NV, 584
Waiver of breach—
Bremer Handelsgesellschaft mbH v Mackprang, 20
SALVAGE
Lifeboatmen's services—
The "Boston Lincoln", 859
SEX DISCRIMINATION
Retirement age—
Roberts v Cleveland Area Health Authority. Garland v British Rail Engineering Ltd. Turton v MacGregor Wallcoverings Ltd, 682
Smoke shell production—
Jeremiah v Ministry of Defence, 1236
SHIPPING
Collision—
Mv "Esso Chittagong" v Mv "Thomaseverett", 565
Demurrage—
Nippon Yusen Kaisha v Société Anonyme Marocaine de l'Industrie du Raffinage: The "Tsukuba Maru", 40
Jurisdiction clause—
Arracra Potato Co Ltd and Morello International Ltd v The Owners of the Ship "El Amria", 1264
Lightening contract—
Shell Tanker (UK) Ltd v Astro Carmino Armadora SA: The "Pacific Colocotronis", 712
Limitation of liability—
Afromar Inc v Greek Atlantic Cod Fishing Co, 194

Maritime lien—
"Father Thames", 443
Ownership of bunkers—
The "Saint Anna", 1623
Salvage: award—
The "Rilland", 95
Shipbuilding contract—
Anglomar Shipping Ltd v Swan Hunter Shipbuilders and Others, 879
SOLICITOR
Negligence—
Ross v Caunters, 880
STAY OF ACTION
Concurrent criminal and civil proceedings—
Jefferson Ltd v Indu Bhetcha, 565
SUPPLEMENTARY BENEFIT
Entitlement—
Samson v Supplementary Benefits Commission, 419
Supplementary Benefits Commission v Riley, 22
SURTAX
Restrictive covenant—
Vaughan Neil v Inland Revenue Commissioners, 1265
TELEPHONE TAPPING
Legality—
Malone v Commissioner of Police for the Metropolis, 241
TRADE UNION
Recognition issue—
Engineers' and Managers Association v Advisory Conciliation and Arbitration Service and United Kingdom Association of Professional Engineers, 861
VALUE ADDED TAX
Assessment—
ACT Construction Ltd v Customs & Excise Commissioners, 442
Business—
Church of Scientology of California v Commissioners of Customs and Excise, 318
Receiver's duty—
Re John Willment (Ashford) Ltd, 95
"Suitable"—
Customs and Excise Commissioners v Mechanical Services (Trailer Engineers) Ltd, 16
WARDSHIP
Jurisdiction—
Re AW and EW, 420
WILL
Validity—
Muni Deo Bidesi and Others v Public Trustee of Fiji, 39

Court of Appeal (Civil Division) Transcripts
ARBITRATION
Costs and leave to appeal—
Thyssen (Great Britain) Ltd v Borough Council of Afan, 198
BILL OF EXCHANGE
Dishonoured cheques—
Calzaturificio Fiorella SPA v Walton et anor, 859
Mareva injunction—
Domenica v Shimco (UK) Ltd and Navone Domenica v Shimco (UK) Ltd, 881, 952
Promissory note—
Myerson v Martin, Labesse et al, 20
CONTEMPT OF COURT
Procedure—
Rooney v Snaresbrook Crown Court, 738
CONTRACT
Damages—
Payne v Gee Walker & Slater Ltd, 97
Woodar Investment Development Ltd v George Wimpey & Co Ltd, 952
Estate agents commission—
Lewis and Graves v F Harper, 637
Memorandum of guarantee—
Ford & Carter Ltd v Midland Bank Ltd and Haigh, 421
Restraint of trade—
Greer & Sketchley Ltd, 98
Restrictive covenant—
Kenneth v Myerscough, 858, 952
Sub-contract—
Chellaram & Sons (London) Ltd v Butlers Machinery Distribution Ltd, 421
DAMAGES
Exemplary and aggravated—
Devonshire and Smith v Jenkins, 198
Personal injuries—
Harper v John Harper & Co Ltd, 198
Maiden v National Coal Board, 320
DEFAMATION
Damages—
P v S, 19
EMPLOYMENT LAW
Unfair dismissal—
Sach v DB Court Ltd, 638
FAMILY
Custody of minors—
Smith v Smith, 636
Domestic violence—
Wellington v Wellington, Cinderby v Cinderby, Pekesin v Pekesin, 198
Matrimonial home—
Elsworth v Elsworth, 422
Kavanagh v Kavanagh, 98
Wardship—
Re C, 1180
Re WG, 422
INDUSTRIAL RELATIONS
Trade dispute—
Express Newspapers Ltd v McShane and Ashton, 197
LANDLORD AND TENANT
Family relationship—
Helby v Rafferty, 98
Licence—
Aldrington Garages v Fielder, 637
New lease—
Redfern v Reeves, 738
Procedural irregularities—
Sash v Spring, 738
Tenancy or licence—
O'Malley v Seymour, 637
LEGAL AID
Legal Aid Act 1974, s 28(3)—
R v Welwyn Justices, 1180
LIMITATION
Concealed fraud—
London Borough of Lewisham v Leslie & Co Ltd, 1179
PRACTICE
Amendment of pleadings—
Foster & Braithwaite v Jones, 19
Charging order—
Allison v Clark, 976
Consent order—
Halcon International Incorporated v The Shell Transport & Trading Company Ltd et al, 1051
Contempt of court—
Kavanagh v Kavanagh, 881
Copyright injunction—
Elanco Products Ltd & Lilly Industries Ltd v Mandops (Agrochemical Specialists) Ltd et anor, 738
County Court costs—
Taylor v Ashworth, 738
Varley v Tarmac Ltd, 20
Discovery—
Donnelly v Davies and the Commissioner of Police of the Metropolis, 638
Dismissal for want of prosecution—
Brown v Brown, 1052
Final order—
Brown Ltd v Dennis Price Ltd, 422
Injunction—
Ben & Co v Pakistan Edible Oil Corporation Ltd, 636
Prestoxin Ltd v Boardman and Contra Pest Ltd, 319
Injunction to restrain publication—
John Lennon v News Group Newspapers Ltd and Cynthia Twist, 636
Injunction where fraud—
Alfred Dunhill et anor v Sunoptic SA and Christopher Dunhill, 1179
Judicial review—
Re Raymond Worth's Application, 1180
Letters of credit: Mareva injunction—
Etablissement Esefka International Anstalt v Central Bank of Nigeria, 1180
Limit of issues—
Associated Bulk Carriers Ltd v The Broken Hill Proprietory Co Ltd, 638
Limitation Act 1975—
Cotton v General Electric Co Ltd, 737
Mareva injunction—
Negocios del Mar SA Lima v Doric Shipping Corporation SA, 952
Particulars—
Briman Properties Ltd v Barclays Bank Ltd and Standfield Properties Ltd, 952
Right of appeal—
Royal Bank of Canada v Ghosh, 1050
Service out of jurisdiction—
Quiligotti & Co Ltd v Longinotti Spa, 858
Split trial and discovery—
Gamlen Chemical Company (UK) Ltd v Rochem Ltd, 20
Renewal of writ—
Ingram v Wilson, 97
Stay of action—
Interseas Shipping Co SA v Banco de Bilbao, 320
Siyad v George Wimpey & Co Ltd, 320
Stay of execution—
A B Contractors Ltd v Flaherty Brothers Ltd, 98
Stay of execution on writ of fieri facias—
Prestige Publications Ltd v Chelsea Football & Athletic Co Ltd, 637
Stay of garnishee order—
Whitbread Flowers Ltd v D C Thurston and Stevens & Scone, 638
Want of prosecution—
Compagnie Française de Télévision v Thorn Consumer Electronics Ltd, 319
The Murrayfield Real Estate Co Ltd et anor v C Bryant & Son Ltd, 636
Want of prosecution: Limitation—
Hattam v National Coal Board, 1052
REAL PROPERTY
Collateral agreement—
Cross v Hetenyi, 1052
Law Society's General conditions of sale—
Talley and Talley v Wolsey-Neech, 19
SALE OF GOODS
Breach of condition—
Sheridan v J R Calvert (Quarry Plant) Ltd, 422
Rejection of goods—
Manifatture Tessile Lanerea Wooltex v J B Ashley, 976
SUPPLEMENTARY BENEFITS
"Householder"—
R v South London Supplementary Benefits Appeal Tribunal, 320
TORT
Confidentiality—
Fidelity Lithographic Co Ltd v Alan Lynch & Westcliffe Lytho Co Ltd, 1052
Passing off—
Newsweek Inc v The British Broadcasting Corporation, 952

EEC
COMMON AGRICULTURAL POLICY
Transitional period—
Import of Potatoes, Re: EC Commission v United Kingdom, 929
COMMON COMMERCIAL POLICY
Anti-dumping measures—
NTN Toyo Bearing Co Ltd v EC Council et al, 1233
COMMUNITY LEGISLATION
Directive—
Aerosol Dispensers, Re: EC Commission v Italy, 910
Regulation—
Granaria BV v Hoofdproduktschapvoor Akkerbouwprodukten, 1102
Societé des Usines de Beauport v EC Council, 1232
Retroactivity—
Firma A Racke v Hauptzollamt Mainz; Weingut Gustav Decker KG v Hauptzollamt Landau, 1232
DISCOVERY
Production of documents—
British Leyland Motor Corpn Ltd v Wyatt Interpart Co Ltd, 1102
EEC NATIONALS
Expulsion—
Re Hill and Holzappel, 146

EUROPEAN COMMISSION OF HUMAN RIGHTS
Commission jurisdiction—
Conféderation Française Démocratique du Travail v European Communities, 686
EUROPEAN COURT
Convention jurisdiction—
Etablissements Somafer SA v Saar-Frangas AG, 471
Meeth v Glacetal SARL, 471
Preliminary ruling—
Mattheus v Doego Fruchtimport und Tiefkuhlkost EG, 471
FREE MOVEMENT OF GOODS
Restrictions—
Firma Joh Eggers Sohn and Co v Freie Hansestadt Bremen, 472
FREE MOVEMENT OF PERSONS
Right of establishment—
Knoores v Secretary of State for Economic Affairs, 910
Ministère Public v Aver, 910
PRICE CONTROL
Retail prices—
Openbaar Ministerie v Van Tiggele, 146
RECOGNITION
Domestic driving licences—
Choquet, 472
SOCIAL SECURITY
Sickness benefit—
Kenny v National Insurance Officer, 370
Unemployment benefit—
Re A Farm Manager, 472
UNCONSTITUTIONAL LEGISLATION
Damages—
Bayerische HNL Vermehrungbetriebe GmbH & Co KG v EC Council and Commission, 146

Books

Advertising Law, 1978 *(Macdonald & Evans)*, 678
Ages of American Law *(Yale University Press)*, 237
An Outline of the Law of Agency *(Butterworths)*, 926
Anthony and Berryman's Magistrates' Court Guide 1979 *(Butterworths)*, 1046
Bailment *(The Law Book Co*, Sydney. Distributed *Sweet & Maxwell)*, 829
Baker and Wilkie's Police Promotion Handbook —2: Criminal Evidence and Procedure, 6th Edn *(Butterworths)*, 878
Barristers by Chambers, 8th Edn *(Holborn Law Society)*, 438
Boundaries, Walls and Fences, 4th Edn *(Oyez Practice Notc No 46)*, 10
Brighouse's Short Form of Wills, 10th Edn *(Sweet & Maxwell)*, 654
Butterworths Employment Law Handbook, 678
Butterworth's Orange Tax Handbook 1978-79, 265
Butterworth's Yellow Tax Handbook 1978-79, 17th Edn, 265
Calvert's Powers of Arrest and Charges, 6th Edn *(Butterworths)*, 66
Capital Transfer Tax, 2nd Edn *(Butterworths)*, 581
Cases & Statutes on Family Law *(Sweet & Maxwell)*, 1174
Cases and Statutes on Labour Law *(Sweet & Maxwell)*, 706
Cases in Consumer Law *(Macdonald & Evans)*, 1198
Channel Islands: Basic Business Information *(Oyez Publishing Ltd)*, 351
Commercial Banking Law *(Macdonald and Evans)*, 266
Commercial and Industrial Law, 1st Edn *(M & E Handbooks)*, 314
Commercial Operations in Europe *(Sijthoff-Leyden/Boston)*, 389
Company Charges *(Butterworths)*, 66
Company Law in Europe, 2nd Edn *(Gower Press)*, 514
Construction Law, 2nd Edn *(Concise College Texts series, Sweet & Maxwell)*, 10
Constructive Trusts *(Sweet & Maxwell)*, 490
Consumer Credit Act Manual *(Oyez Publishing Ltd)*, 138
Consumer Credit: Vol 3 of the UK Comparative Law Series *(A W Sijthoff, Leyden/Boston)*, 90
Crown Court: an index of common penalties and formalities, 9th Edn *(Barry Rose (Publishers) Ltd)*, 238
Development of Product Liability in the USA *(Lloyds of London Press)*, 877
Discrimination in Employment: Comparative Labour Law Group *(Almquist & Wiksell International)*, 390
Domestic Proceedings and Magistrates' Courts Act 1978 *(Butterworths)*, 414
Domestic Proceedings and Magistrates' Courts Act 1978 *(Sweet & Maxwell)*, 777
Drink/Driving Offences *(Oyez Publishing Ltd)*, 982
Dutch Business Law—Legal, Accounting and Tax Aspects of Business in The Netherlands *(Kluwer)*, 830
Economic Torts, 2nd Edn *(Sweet & Maxwell)*, 606
English Legal System, 6th Edn *(Sweet & Maxwell)*, 806
Fire and Motor Insurance, 3rd Edn *(Butterworths)*, 361
Fisher & Lightwood's Law of Mortgage *(Butterworths)*, 10
First Churchill, The *(Secker and Warburg)*, 668
Germany—Practical Legal Guide *(Hoyer Verlags GmbH, Braunschweg, Germany)*, 562
Government and Industry *(Professional Books)*, 290
Guide to Chancery Practice, 5th Edn *(Wildy & Sons)*, 562
Guide to the Simplification of the Taxation of Contentious Costs *(Company Communications Centre Ltd)*, 806
Gun Law, 3rd Edn *(Shaw and Sons)*, 730
Hambro Tax Guide, 1978/79 *(McDonald & James (Publishers) Ltd)*, 38
Harvey The Hasty—A Medieval Chief Justice *(Barry Rose (Publishers) Ltd)*, 190
Hill & Redman's Law of Landlord and Tenant, 2nd Cumulative Supplement *(Butterworths)*, 730
Houseman's Law of Life Assurance, 9th Edn *(Butterworths)*, 361
Housing: Security and Rent Control *(Sweet & Maxwell)*, 560
Humphreys' Matrimonial Causes, 14th Edn *(Oyez Publishing Ltd)*, 778
ICE Conditions of Contract, 5th Edn *(Sweet & Maxwell)*, 854
Industrial Injuries Benefits *(Oyez)*, 389
Industrial Tribunals' Procedure, 2nd Edn *(Oyez Publishing Ltd)*, 902
International Double Taxation of Estates and Inheritances *(Butterworths)*, 414
Introduction to English Legal History, 2nd Edn *(Butterworths)*, 829
Introduction to the Law of Credit and Security, An *(Sweet & Maxwell)*, 1094
Judge, The *(Oxford University Press)*, 942
Kelly's Draftsman, 14th Edn *(Butterworths)*, 925
Kitchin's Road Transport Law, 20th Edn *(Butterworths)*, 754
Labour Relations Statutes and Materials, 1979 *(Sweet & Maxwell)*, 678
Land Options *(Oyez Publishing Ltd)*, 1070
Latent Power of Culture and the International Judge *(Professional Books)*, 706
Law and Legal Science, 1979 *(Clarendon Press*, Oxford), 1174
Law and Practice in Matrimonial Causes, 3rd Edn *(Butterworths)*, 1093
Law and Practice Relating to Oil Pollution from Ships *(Butterworths)*, 462
Law and Sexuality *(Manchester Law Centre and Grass Roots Books of Manchester)*, 314
Law of Consumer Protection and Fair Trading *(Butterworths)*, 606
Law of Industrial Pollution Control 1979 *(George Godwin Ltd)*, 1093
Law of Restitution, 2nd Edn *(Sweet & Maxwell)*, 1070
Law of Torts, 5th Edn *(The Law Book Company, Sydney*. Distributed *Sweet & Maxwell)*, 830
Law of Wills *(The Law Book Company Ltd (Australia))*, 138
Law on Hospital Consent Forms *(Ravenswood Publications)*, 926
Legislative Drafting, 2nd Edn *(Butterworths)*, 1070
Licences Relating to the Occupation or Use of Land *(Butterworths)*, 854
Management Guide to Product Liability *(New Commercial Publishing Co)*, 877
Marine Cargo Claims, 2nd Edn *(Butterworths, Canada)*, 362
Medical Malpractice: The Duke Law Journal Symposium *(Ballinger Publishing Co (Cambridge, Massachusetts)*, 351
Murder With a Double Tongue *(William Kimber, London)*, 228
New Licensing Guide, 7th Edn *(Oyez Publishing Ltd)*, 982
New Politics of Human Rights *(Macmillan)*, 538
Notes on County Court Practice and Procedure, 5th Edn 1978 *(Oyez Publishing Ltd)*, 654
Notes on Juvenile Court Law, 10th Edn *(Barry Rose (Publishers) Ltd)*, 314
Obscenity *(Weidenfeld and Nicolson)*, 1094
ONE 'L', An inside account of life in the first year at Harvard Law School *(Penguin Books)*, 561
Outline of the Law of Agency, An, 1979 *(Butterworths)*, 1226
Partnership Taxation, 2nd Edn *HFL (Publishers) Ltd)*, 490
Patent Licensing in Europe *(Butterworths)*, 438
Paterson's Licensing Acts, 87th Edn *(Butterworths)*, 114
Pears Guide to the Law *(Pelham Books Ltd)*, 1094
Pennington's Company Law, 4th Edn *(Butterworths)*, 806
Personal Injury Litigation, 2nd Edn *(Oyez)*, 214
Perspectives on Legal Aid, A Comparative Survey *(Frances Pinter (Publishers) Ltd)*, 925
Polluters Pay—The Control of Pollution Act Explained *(Friends of the Earth)*, 462
Practical Guide to Living in Spain *(Finax Publications)*, 462
Principles of Tax Planning *(Finax Publications)*, 137
Product Liability—An Exercise in Corporate Survival *(Lloyds of London Press)*, 877
Product Liability and Safety Encyclopaedia *(Butterworths)*, 1226
Profit Sharing—Legal Aspects of Employee Share Schemes *(Sweet & Maxwell)*, 877
Racial Discrimination *(Shaw & Sons Ltd)*, 10
Rayden's Law and Practice in Divorce and Family Matters in all Courts, 13th Edn *(Butterworths)*, 902
Regulating Business: Law and Consumer Agencies *(Oxford Socio-Legal Studies)*, 1198
Reshaping the Criminal Law, Essays in honour of Glanville Williams *(Steven & Son)*, 66
Revenue Law, 12th Edn *(Sweet & Maxwell)*, 754
Rowland's Tax Guide 1978/79, 2nd Edn *(Butterworths)*, 754
Shaw's Dictionary of Courts in England and Wales *(Shaw & Sons)*, 390
Sociological Movement in Law *(Macmillan)*, 706
Spiller's Law Relating to Hospitals and Kindred Institutions, 6th Edn *(H K Lewis & Co Ltd)*, 190
Successful Negotiation of Commercial Contracts *(Oyez)*, 561
Tax Planning Review 1979, 1st Edn *(Butterworths)*, 878
Taxation in Europe *(Oyez Publishing Ltd/Farrington Publishing Co Ltd)*, 777
Taxation of Branches and Subsidiaries in Western Europe, Canada and the USA, 2nd Edn *(Kluwer Publishing Ltd)*, 137
Taxation of Overseas Income and Gains, 3rd Edn *(Butterworths)*, 806
Theory and Practice of Income Tax *(Sweet & Maxwell, London)*, 266
Theft Acts 1968 and 1978, 3rd Edn *(Sweet & Maxwell)*, 778

Tolley's Pension Schemes *(Tolley Publishing Co Ltd)*, 414
Topham and Ivamy's Company Law, 16th Edn *(Butterworths)*, 605
Trade Winds, An Introduction to the UK's Law of Competition *(Alan Osborne & Associates)*, 462
Unfair Dismissal Cases, 2nd Edn *(Butterworths)*, 605
United Kingdom Double Tax Treaties, 1st Edn *(Butterworths)*, 854
Value Added Tax *(Butterworths)*, 38
Violence in the Home *(Saxon House)*, 777
Weaving's Notes on Bankruptcy in County Courts, 7th Edn *(Oyez)*, 266
Welfare Rights: The Local Authorities' Role *(Bedford Square Press)*, 90
West's Law of Housing, 4th Edn *(The Estates Gazette)*, 730
Will Draftsman's Handbook *(Oyez Publishing)*, 89
Will Precedents and Capital Transfer Tax *(Butterworths)*, 90
Woodfall's Law of Landlord and Tenant, 28th Edn *(Sweet & Maxwell)*, 314

Cassettes

Consumer Credit Law Updated *(Butterworths)*, 278
Elements of Modern Advocacy *(Butterworths)*, 489
Performance Bonds *(Butterworths)*, 489

Letters

Abortion, 1058, 1081, 1185, 1186
Access to the countryside, 525
Another type of company, 226
Appointment of judges, 939
Bargain offers, 939
Bill of Rights, 377, 450
Blasphemy, 255
Calculators and invigilators, 226
Charter for industrial peace, 202
Child in care, 302
"Cohabits", 350
Complaints against solicitors, 643
Computer contracts, 866
Consent to intercourse, 1009
Conveyancing forms, 350
Costs of objectors at public inquiries, 766
Cotton v General Electric Co Ltd, 843
Cycle lore, 693
Damages for lost years, 101
Dicing with Spanish property, 1058
Directors' contracts, 78
Directors' duties, 617
Divorce, 914, 958, 1034, 1082
DIY divorce, 617, 643, 718
Domestic Proceedings Act, 569
Election of judiciary, 1214, 1242
Exchange contracts, 1162, 1270
Firearms control, 278, 570, 694
Foreclosure, 225, 303, 426
Forcible eviction, 891, 1082, 1185
Foreclosure, 225, 303, 426
Freedom of information, 818
History of the mile, 102, 153, 255
Homeloans, 914
Implications of Lewisham case, 403, 694, 766
Injunction anomaly, 503
Insurance law reform, 842
Intent to steal, 866
Judicial thinking, 102
Jury trials, 154
Kelly's draftsman—14th Edition, 766
Land registry, 226, 350
Law in schools, 326
Law of treasure, 26
Law reform, 1185
Law Society master policy scheme, 450
Legal aid practice, 1082, 1241
Legal charge on property, 939
Legal charities garden party, 26
Legal control of terrorism, 957, 1109
Life assurance for partnerships, 1242
Local land charges, 866
Lord Denning and the trade unions, 526
Medical reports, 127
Middle class profession, 403
Minibus Law, 254
New estate roads, 843, 981
Official secrets and the Attorney-General, 53
On being different, 450
One parent families and family income supplement, 1010
Pensions, 582
Personal injury compensation, 1270
Police complaints, 642, 693
Politics and independence, 178
Politics and law, 201, 226
Politics and law centres, 254
Postponed creditors, 101
"Protecting individuals", 102
Public Trustee, 526, 617
Rape by a husband, 426, 503, 525
Reckless criminal damage, 866
Representation, 127
Revocation of wills on divorce, 642
Revocation of wills on marriage, 582
Revocation of wills on marriage, divorce and remarriage, 938
Rights of audience, 277, 326
Right to protest, 1033, 1110
Role of lawyers, 26
Royal Commission on Legal Services, 1136, 1162, 1213
Rust v Abbey Life Assurance Co Ltd and Prentice, 569
Secondary picketing, 177, 254
Sentencing drug offenders, 1033, 1242
Sex disqualification, 1240
Slater case: proviso (a), 1214
Sole practitioner, 450
Study on criminal trials, 890
Succession rights: Rent Acts and secure tenancies, 642
Telephone tapping, 303
Thorpe trial, 766
Tribunal representation, 226, 278
Unlawful eviction, 981, 1033, 1082, 1185
Unmarried couples, 1058
US diversity jurisdiction, 582
Wandsworth's law centres, 718, 795
Wife's interest in the matrimonial home, 426
Williams & Glyn's Bank v Brown, 325
Wives in actual occupation, 817, 890
Womb leasing, 54

Printed in Great Britain by K&SC (PRINTERS) LTD, Tunbridge Wells, Kent, and Published by BUTTERWORTHS, 88 Kingsway, London WC2B 6AB

New Law Journal

Vol 129 No 5885
Thursday, January 4, 1979

Contents

Law of Contract

Misstatements and the Unfair Contract Terms Act 1977 4

Company Law

Exempting the Directors 6

Damages

Damages for Lost Years 8

Revenue Law

Inflation Gains Tax 9

Money

The Floating Pound 23

Investment

Prospects for 1979 27

The Practitioner

FamD Practice Direction: Defended Causes Pre-Trial Review — New Cases including reports of *Day v Day* and *Medical Defence Union v Department of Trade* — Court of Appeal (Civil Division) Transcripts 11

The Week 3

Book Reviews 10

Letters 26

Comment 28

Directory of Surveyors ix

Directory of Property Specialists xviii

Appointments and other Classified Advertisements xx

Editor: Judy Hodgson LL B

Assistant Editor: Ruth Eldon

Editorial Office: 9-12 Bell Yard, Temple Bar, London WC2A 2JZ (01-405 6900)

Subscription Office: Butterworths, Borough Green, Sevenoaks, Kent (Borough Green 884567)

Advertisement Managers: T G Scott & Son Ltd, 30-32 Southampton Street, London WC2E 7HR (01-240 2032 (9 lines))

Annual Subscription: £17.40 post free, inland. Single copies: 50p post free, inland

Registered as a Newspaper at the Post Office

ABC
MEMBER OF THE AUDIT BUREAU OF CIRCULATIONS

Review of 1978

The limbo period between the Christmas and New Year holidays has afforded us the unusual luxury of time for reflection, time to look back on the legal events of 1978 and time to speculate a little on what 1979 will bring. 1978 will undoubtedly go down in the annals of the legal profession as the year of the Royal Commissions — the Royal Commission on Legal Services was, by the end of the year, able to announce that it hopes to submit its report in the middle of 1979, and the Royal Commission on Criminal Procedure started work on February 15. A considerable amount of time and energy has been put in by those responsible for preparing the evidence of the Law Society and the Bar Council as well as by individual members of the profession to the Royal Commission on Legal Services. It would be idle to speculate on the recommendations that are likely to be made on the future of the legal profession but what is certain is that the profession is now better documented, its practices — restrictive and otherwise — better explained and analysed than would ever have been possible without a Royal Commission.

1978 saw the publication of two long-awaited reports: the Pearson Commission published its report on Civil Liability and Compensation for Personal Injury after five years; the report, statistics and analysis of overseas systems ran to three volumes. The Parker report on the proposed plutonium producing reprocessing plant at Windscale resulted in a recommendation that the scheme should go ahead, a recommendation endorsed shortly afterwards by Parliament. The Law Commission published three major reports: on family property, the mental element in crime and interest. It also saw legislative effect given to seven of its consolidation Bills during the year, including the Employment Protection (Consolidation) Act 1978 and the Oaths Act 1978.

While Parliament's time was largely taken up by the Bills devolving power to the proposed Scottish and Welsh assemblies, there were nevertheless a number of new statutes of importance to lawyers including the Consumer Safety Act, the Domestic Proceedings and Magistrates' Courts Act, the Theft Act, the Civil Liability (Contribution) Act, the State Immunity Act and the Judicature (Northern Ireland) Act which makes provision for the reorganisation of the courts system in the province. Providing that the present Government remains in power despite its precarious minority position, 1979 is likely to see the enactment of the new Companies Bill which gives effect to two White Papers, *The Conduct of Company Directors* and the *Reform of Company Law*. In addition it is reasonable to suppose that the Arbitration Bill and the Land Registration (Scotland) Bill will be afforded an easy passage. However, we are less certain of whether the long promised measure to repeal s 2 of the Official Secrets Act will make its overdue appearance. It would also be heartening to think that we will see a measure clarifying and reforming the law of contempt but it is in these areas of the greatest confusion and unpopularity that the greatest reluctance to take positive action — by means of the introduction of a Bill — is most manifest.

The greatest show of indignity of 1978 arose from precisely these two areas. The charges against Messrs Aubrey, Berry and Campbell under the Official Secrets Act brought about the "Colonel B" affair. It is hardly necessary to describe again the ridiculous situation which raised questions concerning in camera proceedings in magistrates' courts, the position of MPs who, during a debate in the Commons, referred to the Colonel by name, to the edification of those listening to the broadcast proceedings, and the possibility of the DPP being in contempt of Parliament. The climax of the affair must surely have come with the trial at the Old Bailey during which the most serious charges, those under section 1, were dropped — with the Attorney-General's consent — after the judge indicated that he thought them to be oppressive. Inevitably questions must be asked, and were asked, about how the Attorney-General came to give his consent to the prosecution in the first place. Mr Silkin, whose tenacity in

the face of adversity must be one of his greatest virtues, has been a controversial figure since assuming this office. There have been other cases of some notoriety in the year not the least of which was the committal proceedings at Minehead against Jeremy Thorpe and his co-defendants. Nor is the *Gay News* case over yet; the decision of the House of Lords in *R v Lemon* concerning blasphemous libel is expected in the New Year. On a less salacious note the House of Lords considered the extent of a barrister's liability in negligence in *Saif Ali v Sydney Mitchell.*

Finally, the prizes for 1979 must go to Mr Sam Silkin, the Attorney-General, for drawing attention to the absurdities of the Official Secrets Acts, to Miss Joyce McKinney who defied British justice by escaping to Canada disguised as a deaf-mute nun, thereby depriving millions of the titilation of the evidence at her forthcoming Old Bailey trial. The award for the most incomprehensible statutory instrument goes to the Social Security (Graduated Retirement Benefit) Regulations 1978 SI 1978/391 and 393 which together with the Social Security Benefits Up-rating Regulations 1978 SI 1978/1123 keep in force sections 36 and 37 of the National Insurance Act 1965 (which in theory were repealed in 1973), but with numerous modifications. For those who pride themselves on their powers of statutory interpretation we recommend that they tackle the explanatory note to SI 1978/393 so far as it relates to regulation 2.

Treatment of Young Offenders

It is a mark of public acceptance of the policy of relating the sentence of the court to the circumstances of the individual offender other than to the nature of his or her offence that there has been increasing awareness in recent years of the need to provide radically different methods of treatment for young people and especially children who are found guilty by the courts from those that are considered appropriate to adult offenders. The Government's newly published Green Paper, *Youth Custody and Supervision — A New Sentence* (Cmnd 7406. HMSO. £1.50) considers proposals which mark out a possible further stage in the development of that process. The Green Paper owes its existence to a report produced in 1974 by the Advisory Council on the Penal System which concluded that the inadequacies, in rehabilitative terms, of the traditional forms of custodial sentence were such that a new approach to the treatment of young offenders, more heavily dependent on treatment in the community, was needed. Its most important proposals to that end involved the introduction of a new custodial form of sentence entitled "the custody and control order" and a new non-custodial form of sentence entitled "the supervision and control order". The Government's Green Paper is concerned with the former order which in principle it accepts. It is not however concerned with the latter order, on which, it says, there has been an insufficient measure of agreement among those who have been consulted on it. It is, in the words of a parliamentary statement by the Home Secretary as long ago as February 1977, "an idea that should be put aside for the present", though not necessarily "discarded for all time".

The Advisory Council's proposal in regard to the custody and control order was that such an order should replace all the existing forms of disposal (ie imprisonment, borstal training and a detention centre) and that a young offender in respect of whom such an order was made would spend a period during which he would be in custody, followed by a period during which he would be living in the community, but subject to supervision by the probation service. The order would run for a term fixed by the court, to accord with the circumstances of the individual offender, subject to a minimum of three months and a maximum equivalent to the maximum period of imprisonment for the offence in question. Wherever possible the period in custody should be served in an institution close to the offender's home. Both the period in custody and the subsequent period under supervision would be regarded as a single continuum and the moment of transfer from one to the other would be decided by the Home Secretary on the advice of local committees on the lines of those that advise on parole in the case of adult offenders. By virtue of their power to make a "restricted release order", a measure of control over the operation of the system would be vested in the courts in cases in which the protection of the public called for special consideration of an offender's transfer from custody to supervision. In any event, the period of supervision would be for a minimum of six months, irrespective of the length of the time spent in custody. During the supervision period, the Home Secretary would have wide powers to recall.

This, then, is the scheme which the Government provisionally support, though they are opposed to the fettering of the courts' discretion by the imposition of a three month minimum period of custody and supervision; if there is to be a minimum it should, it is suggested, be four weeks. However, the scheme is supported only as what the Home Secretary, in the parliamentary statement previously referred to, described as an "eventual objective". He went on to say however that in view of the financial implications of its implementation, he saw "no prospect of early changes in the law or developments in practice", in the present economic situation. Instead he made the depressing forecast that "for the present we must hold to the custodial system that we have, accept its shortcomings and do our best to improve its performance". Economic considerations do not appear to be the only delaying factor. Considering that the Advisory Council's proposals have been as widely discussed and commented on as they have, it is curious that the Government appear still not to have made up their minds in regard to some of the most important of them, and indeed the Green Paper — to the extent that it is not a mere "pot-boiler" — is a further cry for help to enable them to do so. It proposes, for example, that the custodial element of the custody and control order (to be known, it suggests, as a "youth custody" order) should be subject to a fixed period of remission of perhaps one-third of the period prescribed by the court, but that "the question arises (and comment on it is sought)" whether there should be, in addition, "a system of early release either in certain specific circumstances, or within a set time of the normal remission date or after a certain proportion of the sentence (probably one-third or one-half) has been served". That passage alone offers enough alternatives to keep the debate going. Meanwhile the level of crime among young people will continue to be a matter of concern — a concern which the Home Secretary says in his foreword to the Green Paper "the Government shares . . . to the full". Unfortunately such concern will not, it appears, be matched by a corresponding commitment to the adoption of more relevant and effective means of dealing with the problem.

The Week

Community Lawyers

Shortly before Parliament disbanded for Christmas, the Lord Chancellor introduced in the House of Lords the draft European Communities (Services of Lawyers) Order 1978, which the Commons approved some time ago. The Order is intended to give effect, in this country, to the EC Council Directive of March 22, 1977, whose object was to implement section 59 of the Treaty of Rome and to make possible the "freer interchange of professional legal services within the community". It will enable lawyers to provide their services in community jurisdictions other than their own, on a temporary basis. It is the temporary nature of the arrangement, the Lord Chancellor explained, which distinguishes it from the right of establishment — "the right to set up a permanent practice in another member state". Implementation of the directive of March 22, 1977, may indeed take some of the heat out of the establishment to date, for many lawyers may find the rights exercisable under the directive on a temporary basis sufficient for their purposes. If United Kingdom lawyers were to enjoy those rights in other community countries, their lawyers would have to be accorded them here. "Reciprocity", the Lord Chancellor said, "is essential". To achieve this we would have "to modify those provisions of our own laws which reserve the provision of certain services to United Kingdom lawyers", so as to allow certain Community lawyers — "roughly those corresponding to our own advocates, barristers and solicitors" — to provide certain kinds of services, and in particular those related to the representation of clients in legal proceedings before our own courts and preparing certain non-contentious legal documents in this country. Their right to do so will however be subject to a number of qualifications permitted by the Directive. An EEC lawyer "must be instructed and act in conjunction with a UK lawyer entitled to practise before the court and to provide the service in question". This qualification is intended to take account of differences of procedure and a visiting lawyer's unfamiliarity with them. An EEC lawyer will not be able to provide the services of both a barrister and a solicitor in the same or related proceedings and EEC lawyers in salaried employment will be put on the same footing as UK lawyers in salaried employment. The right to prepare legal documents will not extend to documents creating or transferring interests in land or those related to the administration of deceased persons' estates. Not all the lawyers to whom the Directive applies are, the Lord Chancellor explained, entitled to draw up such documents in their own countries. EEC lawyers will be entitled to provide services by way of legal advice and assistance and legal aid, subject to the same controls as UK lawyers. For the purpose of establishing the credentials of eligible lawyers, professional identity cards will be issued to those entitled to practice in Community countries other than their own.

Reporting Committals

In line with editorial comment in the last issue of this *Journal* Mr Nicholas Fairbairn QC, who represents Kinross and West Perthshire in the Commons, was, by a substantial majority of members voting, given leave to introduce a Bill for the purpose of "restricting the reporting of criminal proceedings in magistrates' courts". As Mr Fairbairn proceeded to explain, it was with committal proceedings in such courts that he was concerned, and the reporting of committal proceedings is of course already restricted under the Criminal Justice Act 1967. He made it clear, however, that his Bill was intended "to *prevent* the reporting of [such] proceedings" altogether. As a result of the reporting by the media of recent happenings in Minehead, many more people than would otherwise have been the case may now be disposed to accept that the compromise expressed in the 1967 Act was misconceived and that nothing short of a total ban on reporting will suffice to safeguard the administration of justice. Certainly that was the view of the Tucker Committee in 1958. In recommending that the reporting of committal proceedings (apart from the name of the accused, the charge and the decision of the court) should be forbidden, that committee specifically said that "no lesser reform would be both adequate and practicable [to remove] the unfairness that is seen in only the prosecution case being before the public during the weeks before the trial". It may be said that hard cases make bad law, but it is indisputable that the Minehead case has clearly demonstrated that the present law is a bad law, in the sense that it is capable of giving rise to a serious danger of unfairness in precisely the kind of situation in which that danger is most acute. When that happens, Mr Fairbairn pointed out, "it is a fallacious fiction of the law that a judge may say [to a jury], 'Put out of your minds anything that you may have read'." In fact judges may, and do, say precisely that. The "fallacious" — and very dangerous — "fiction of the law" is itself belief that a jury are capable of acting in accordance with such an injunction. In such a situation there can be no cure. Only prevention remains therefore. His Bill, Mr Fairbairn stressed, was "not an assault upon the proceedure for committal proceedings", though he implied that there might be grounds for such an assault, in that he offered to say what his own views on such proceedings were "on another occasion". Recent events in Minehead go further than merely to cast doubt on whether the reporting of committals should be permitted. The question they also pose is whether we need such proceedings — that is, a formal hearing in court — at all. Here again the 1967 Act is a compromise, and the question is what advantage the compromise preserves that could not equally well be secured in other ways, if "paper" commitals alone were permitted. Clearly the disadvantages of formal committal hearings are, or maybe, substantial.

Children's Year

1979 is the twentieth anniversary of the promulgation of the UN declaration of the rights of the child. This is not the best known international instrument for the protection of human rights, and for that reason alone it is appropriate that 1979 has been designated "International Year of the Child", with the general objective of securing wider awareness of the declaration and implementation of the rights it proclaims. In this country, over 200 organisations have formed the UK Association for the International Year of the Child and some of them will be engaged in preparing the ground for, and establishing, a "children's legal centre". According to the literature produced by the Association, the centre will, it is expected, "conduct test cases to clarify and develop existing law, undertake cases about children where legal aid is not available, publicise the need for specific reforms, and act as a national resource unit on the legal rights of children". Whether, where a need for legal assistance exists in individual cases, that is the right approach to meeting it may be questioned, but there is no doubt that such a specialised agency could be of great value in identifying general problem areas and bringing them to public notice.

TOM HARPER

Law of Contract

Misstatement and the Unfair Contract Terms Act 1977

John R Murdoch LLB

The provisions of the Unfair Contract Terms Act 1977, which made sweeping changes in the law governing the use of exemption clauses, have been subjected to keen scrutiny since the Act came into force. Most commentators, however, have paid relatively little attention to the effect of these provisions upon the exclusion of liability for misrepresentation, perhaps because the new law is regarded merely as making minor amendments to the statutory control already in existence under the Misrepresentation Act 1967. The purpose of this article is to suggest that the impact of the new Act in this area is more important and, in some ways, more surprising, than has so far been realised.

Liability for misstatements made during pre-contractual negotiations may take various forms. In the first place, if a statement which is subsequently incorporated into the contract turns out to be false, an action lies for breach of contract. The extent to which this form of liability can be excluded by a term of the contract is not special to statements; it is governed by the normal rules concerning contractual exemption clauses and we need not consider it further.

Secondly, an action for misrepresentation proper lies when one party is induced to enter into a contract by a false or misleading statement of fact made by or on behalf of another contracting party. The remedies available in such an action differ according to whether the representation was made fraudulently, negligently or innocently. About fraud, little more need be said for our present purposes; the common law will not allow liability to be excluded (*S Pearson & Son Ltd v Dublin Corporation* [1907] AC 351). As for negligent and innocent misrepresentations, an action lies under the 1967 Act, and this also governs the extent to which liability may be excluded.

The third form of liability arises where the plaintiff can establish a "special relationship" within the scope of the rule in *Hedley Byrne v Heller* [1963] 2 All ER 575. This, of course, represents the only chance of success in cases where a non-contractual statement falls short of being a representation of fact, or where it is made by someone other than a party to the contract (eg where a house-buyer wishes to sue the estate agent, rather than the vendor, for something said by the agent—see *Dodds and Dodds v Millman* (1964) 45 DLR (2d) 472). It was at one time thought that this tortious duty could not apply between parties to a contract, but this fallacy was exploded by the Court of Appeal in *Esso Petroleum Co Ltd v Mardon* [1976] 2 All ER 5, and it now seems that a single statement may give rise to claims both in tort and under s 2 of the Misrepresentation Act 1967 (see, for example, *Howard Marine & Dredging Co Ltd v A Ogden & Sons (Excavations) Ltd* [1978] 2 All ER 1134).

This article, then, is concerned with the impact of the Unfair Contract Terms Act upon the exclusion of two kinds of liability; for misrepresentation (negligent or innocent) as such, and for tortious negligence under *Hedley Byrne v Heller*.

Misrepresentation

The legislative subjection of exemption clauses to a test of reasonableness (a device widely used in UCTA) was, of course, earlier applied to the topic of misrepresentation by s 3 of the 1967 Act. This section has been redrafted by UCTA, s 8, and now reads as follows: "If a contract contains a term which would exclude or restrict—(a) any liability to which a party to a contract may be subject by reason of any misrepresentation made by him before the contract was made; or (b) any remedy available to another party to the contract by reason of such a misrepresentation, that term shall be of no effect except in so far as it satisfies the requirement of reasonableness as stated in s 11(1) of the Unfair Contract Terms Act 1977; and it is for those claiming that the term satisfies that requirement to show that it does." The substitution of this provision for the original s 3, which was presumably intended merely to prevent the possible development of two different "reasonableness" tests, may well have produced some unintended and (so far) unnoticed results. These will shortly be examined; first, however, we must consider to what *types* of clause the statutory control applies.

Types of Exemption Clause

In the field of misrepresentation, more perhaps than in any other area of liability, the ingenuity of draftsmen has produced a kind of clause which, instead of meeting an accrued obligation head-on, seeks to prevent it from arising in the first place by denying the existence of one of its essential elements. The idea is that a plaintiff should be unable to establish that he was *induced* by a false or misleading statement of *fact* to make the contract in question. Typical examples of this approach are: "All statements contained herein are statements of opinion only"; "The purchaser acknowledges that he has not been induced to enter into this contract by any representation of the vendor or his agent"; "The accuracy of these statements is not guaranteed"; and "The purchaser must satisfy himself as to the accuracy of these statements".

It is suggested that a court would not allow the first of these clauses to apply to a clear statement of fact; further, the second clause can, it appears, only operate to estop the plaintiff where the defendant genuinely believes the acknowledgement to be true (*Lowe v Lombank Ltd* [1960] 2 All ER 611). The effect of an "accuracy is not guaranteed, and the purchaser must satisfy himself" clause was recently considered by the Court of Appeal in *Cremdean Properties Ltd v Nash* (1977) 244 EG 547, where property was sold after an alleged misrepresentation as to the amount of lettable office space which it contained. The defendant's argument that liability was excluded by the clause, and that this was not subject to s 3, was tried as a preliminary issue by Fox J, who rejected it. On appeal, the view was taken that the particular form of words used did not exclude reliance by the purchaser. This was sufficient to dispose of the case, but two members of the Court of Appeal took the opportunity to express their opinion that s 3 would apply to any clause whose clear intention was to avoid liability for misrepresentation. Bridge LJ, having drafted a hypothetical term to the effect that a vendor should be conclusively deemed to have made no representation, proceeded to demolish it: "I should not have thought that the courts would have been ready to allow such ingenuity in forms of language to defeat the plain purpose at which s 3 is aimed." Scarman LJ, too, felt that the spirit of the Act would be contravened if the defendant's argument of "no assertion

John Murdoch is a lecturer in law at the University of Reading.

of accuracy, therefore no misrepresentation" were accepted: "Humpty Dumpty would have fallen for this argument. If we were to fall for it, the Misrepresentation Act would be dashed to pieces which not all the King's lawyers could put together again."

If these views represent the general judicial attitude towards s 3, it is clear that the provision will be widely and generously interpreted. There are, however, limits still; as Bridge LJ acknowledged (approving the decision of Brightman J in *Overbrooke Estates Ltd v Glencombe Properties Ltd* [1974] 3 All ER 511). There is nothing to prevent a principal from publicly limiting the ostensible authority of his agent, and thus avoiding liability for any false statements made by that agent on his behalf.

The New Law

Where an attempt to avoid liability for misrepresentation is treated by the court as an exemption clause, the effect upon it of s 3 of the Misrepresentation Act falls to be considered. In its new form, this section provides clear guidance on three matters which were previously, if not completely ambiguous, at least the subject of some argument.

(i) The Act, with its requirement of "reasonableness", now applies only to a *term* in a *contract*, whereas previously it covered any *provision* in an *agreement*. The scope of the former rule was far from clear, although it was presumably wider than its successor (the word "agreement" did not appear elsewhere in the Act, which spoke only of "contracts"). Would, for example, the clause usually to be found at the foot of an estate agent's particulars be regarded as a provision in an agreement? If so, then members of that profession can rejoice in UCTA as a liberating measure!

At the risk of putting the horse after the cart, it should be stated that the legal effectiveness of excluding liability for misrepresentation by anything other than a contractual term is not entirely free from doubt. In principle, by analogy with the exclusion of tortious duties by notice, this should be permissible, and the former wording of s 3 suggests that it is so. On the other hand, it was suggested by Bridge LJ in *Cremdean Properties Ltd v Nash* that a representee is not "bound" by a clause which does not form part of a contract.

(ii) In its original form, s 3 could be read as applying the requirement of reasonableness *either* to the exclusion clause itself *or* to the defendant's reliance upon it. Which interpretation was correct was naturally of great practical importance to those responsible for drafting such clauses, for an unreasonably wide clause might nevertheless be subject to perfectly reasonable reliance (eg in respect of some innocent and trivial misstatement). The Explanatory Memorandum which accompanied the Misrepresentation Bill clearly intended "reasonableness" to apply to the clause; the actual wording of the Act, however, has been held to achieve the opposite result (per Lord Denning MR in *Howard Marine & Dredging Co Ltd* v *A Ogden & Sons Ltd* [1978] 2 All ER 113). Whatever the truth of this matter, there can be no doubt as to the position now; the requirement of reasonableness contained in s 11(1) of UCTA is that "the term shall have been a fair and reasonable one to be included having regard to the circumstances which were, or ought reasonably to have been, known to or in the contemplation of the parties when the contract was made."

(iii) The former wording of s 3 left some doubt as to which party bore the onus of proving the reasonableness or otherwise of an exemption clause. The new provision undeniably places this onus upon the representator, in order to maintain consistency with the rest of UCTA, which states in s 11(5) that "It is for those claiming that a contract term or notice satisfies the requirement of reasonableness to show that it does."

Negligence

As we have seen, a person who makes a negligent statement in the course of pre-contractual negotiations may be sued for damages in tort, whether he is a contracting party (as in *Esso Petroleum v Mardon*) or not (as in *Dodds and Dodds v Millman*). Such liability arises under *Hedley Byrne v Heller*, and any attempt to exclude it must overcome or circumvent s 2(2) of UCTA, which provides that "a person cannot [by contract term or notice] exclude or restrict his liability for negligence except in so far as the term or notice satisfies the requirement of reasonableness". In addition, s 13(1) provides that s 2 also prevents "excluding or restricting liability by reference to terms and notices which exclude or restrict the relevant obligation or duty".

At first sight, these provisions seem sufficient to cover the situation in question, but there is a strong case for saying that the classic "without responsibility" clause which was held effective in *Hedley Byrne* itself operates, not to exclude an existing liability, but to prevent the duty from arising at all. All five members of the House of Lords in that case expressed the view that the duty was not imposed by law, but rested on a voluntary assumption of responsibility by the defendant. The effect of this view upon the status of the disclaimer was best summarised by Lord Devlin, who said: "A man cannot be said voluntarily to be undertaking a responsibility if at the very moment when he is said to be accepting it he declares that in fact he is not". To argue along these lines is to trace the lonely furrow so ably ploughed since 1964 by Professor Coote (*Exception Clauses*, 1964 and, on the Unfair Contract Terms Act, 41 MLR 312) who has consistently claimed that a term which helps to define a person's primary obligation is not an exemption clause at all and should not therefore be subject to special rules.

The argument that a disclaimer of responsibility does not exclude a liability to which the defendant would otherwise be subject, but simply shows that he does not undertake the duty in question, is logically formidable; several points, however, may be made against it. In the first place, this argument would seem even more suited to an express *contractual* obligation undertaken by one party, yet the courts have never been slow to treat a term restricting such an obligation as an exclusion clause, rather than as part of the obligation's initial definition. Secondly, it cannot be denied that the "voluntary assumption" basis of *Hedley Byrne* has become somewhat obscured in later cases, particularly those concerning the statutory duties of local authorities (see, for example, *MHLG v Sharp* [1970] 2 QB 223). Indeed, in *Coats Patons (Retail) Ltd v Birmingham Corporation* (1971) 69 LGR 356, where a local authority was sued for negligently giving the wrong answer to enquiries from a prospective purchaser, Bean J treated the standard-form disclaimer as an exemption clause which, since there was possible contractual liability, did not operate to bar the tort claim (the learned judge was not in fact asked to grasp the nettle; the defendants conceded that *Hedley Byrne* applied). Thirdly, one is conscious of judicial reluctance (admirably exemplified by *Cremdean Properties Ltd v Nash*) to support an exemption clause on technical grounds; the view there expressed was that, however it was drafted, a term which had the intention of avoiding liability would be subject to the exclusion clause rules.

In the light of these obstacles, it might seem that an attempt to treat a disclaimer as anything but an exemption clause is doomed to failure. It is nevertheless submitted that, if more than lip-service is to be paid to the "voluntary assumption" basis of *Hedley Byrne*, it is precisely this view which must be taken, with the result that such disclaimers should be free from the requirement of reasonableness imposed by UCTA.

Conclusion

The most important points in the fore-

going analysis may be summarised by saying (i) that (possibly) liability for misrepresentation and certainly liability under *Hedley Byrne* can be excluded by a non-contractual announcement; and (ii) that such an announcement in respect of misrepresentation and (possibly) in respect of *Hedley Byrne* will fall outside the scope of the Unfair Contract Terms Act 1977. If the two possibilities are confirmed (as, it is submitted, they should be), the astonishing result is that, in the field of misstatement, the widely feared provisions of the new legislation may be sidestepped completely by the simple device of taking exclusion clauses out of contracts and putting them on notice boards or into non-contractual documents. Parliament may have increased the range of the judicial broadside, but the draftsmen of exemption clauses are far from being sunk!

Company Law

Exempting the Directors

E J Rule and H S Brar

Not long ago, the following provision in special articles of certain off-the-peg companies was brought to our attention:

> "A director may vote in regard to any contract or arrangement in which he is interested or upon any matter arising thereout and if he shall so vote his vote shall be counted and he shall be reckoned in estimating the quorum present . . ."

We have serious doubts about the validity of such an article, which appears to us to be in flagrant breach of s 205 of the Companies Act 1948—insofar, that is, as it is possible to be in flagrant breach of a section so obscure and fraught with difficulties. Yet, articles in this form are not uncommonly adopted by small private companies in lieu of Article 84(2) of Table A, which prohibits a director from voting on a contract in which he has an interest or being counted in the quorum at the board meeting at which the board decides to commit the company to the contract in question.[1]

On the face of it, s 205 seems quite clear. It provides:

> ". . . any provision, whether contained in the articles of a company or in any contract with the company or otherwise, for exempting any officer . . . from . . . any liability which by virtue of any rule of law would otherwise attach to him in respect of any negligence, default, breach of duty or breach of trust of which he may be guilty in relating to the company shall be void".

And it has long been accepted that if a director contracts with the company of which he is a director, he thereby allows his duty and his interest to conflict, with the result that the contract in question is voidable at any time at the option of the company (see *Aberdeen Railway v Blaikie* (1854) 1 Macq 461).[2] In other words, the strict duty not to allow his duty and his interest to conflict applicable to trustees applies also to directors.

Nevertheless there is one difference in this respect between directors' fiduciary duties and those of trustees: this lies in the fact that the company in general meeting can "ratify" any breach of duty by a director, provided the director has not been fraudulent or dishonest. Numerous cases establish this principle, a recent one being *Bamford v Bamford* [1969] 1 All ER 969, in the Court of Appeal. Further, *North-West Transportation v Beatty* (1887) 12 App Cas 589, shows that it is quite in order for the director to vote any shares he may own in the company in favour of "ratification" of his breach of duty.

Now, since "ratification" ex post facto of breaches of duty was permitted, why not authorise the breaches in advance by a provision in the Articles? After all, it is argued, if you have power to ratify a transaction you must necessarily have power to authorise it in advance. However, there seems here to be a confusion of two concepts. This confusion has arisen because the same name—ratification—has been given to two different concepts. The word "ratification" is commonly used both (1) to refer to the phenomenon of ex post facto authorisation of the acts of an agent who initially contracts without, or in excess of, authority, and (2) to refer to the phenomenon whereby a person waives his entitlement to bring proceedings. The former type of ratification derives from the common law, the latter type is based in equity. It is submitted that just because at law the authorisation of an agent can take place either before or after the agent contracts on behalf of the principal, it does not necessarily follow that in equity one can waive one's rights in respect of possibly future unspecified breaches of duty on the part of someone who has fiduciary obligations towards one. Be that as it may, it became common for articles to exempt directors from the consequences of contracting with the company and other breaches of duty. For this reason, the Greene Committee Report (which resulted in the Companies Act 1929) condemned Articles of this type and recommended that they should be proscribed. This recommendation was duly enacted in the Companies Act of 1929 and subsequently re-enacted as s 205 of the Companies Act 1948.

All this seems very straightforward, and no possibility of doubt as to the meaning of s 205 could have arisen had it not been for the fact that Article 84(3) of Table A—contained in the very same 1948 Companies Act as is s 205—appears on the fact of it to relieve directors from the consequences of a breach of duty which takes the form of having an interest in any contract to which the company is a party. The relevant parts of Article 84(3) read as follows:

> ". . . nor shall . . . any contract entered into by or on behalf of the company in which any director is in any way interested, be liable to be avoided, nor shall any director so contracting or being so interested be liable to account to the company for any profit realised by any such contract or arrangement by reason of such director holding that office or of the fiduciary relation thereby established."

[1] *The substance of this article is not affected by the Companies Bill* 1978, *clause* 52 *of which merely provides for the disclosure in the accounts of a company of specified substantial contracts in which a director of the company has material interest.*

[2] *Lord Cranworth said in this case:*
". . . it is a rule of universal application that no one, having such duties to discharge [ie fiduciary duties] shall be allowed to enter into engagements in which he has, or can have, a personal interest conflicting, or which possibly may conflict, with the interests of those whom he is bound to protect . . . So strictly is this principle adhered to that no question is allowed to be raised as to the fairness or unfairness of a contract so entered into . . ."

Had such an article not been sanctified by inclusion in the Companies Act 1948 Table A, nobody would have doubted that it contravened s 205 and was therefore void. However, as it is, we have to presume that this article does not contravene s 205, and find some way of reconciling the two.

Gower and Gore-Browne attempted to solve the problem by saying that s 205 only renders void articles which purport to exempt directors from the *consequences* of their breaches of duty; that Article 84(3), however, does not come within the ambit of s 205 because it does not exempt directors from the consequences of any breach of duty; what it does do is to provide that certain acts (in particular, having an interest in a contract to which the company is a party) shall not be breaches of duty in the first place. This extremely jesuitical argument was fully and admirably refuted by C D Baker in an excellent article in the *Journal of Business Law*, in which he demonstrates that the history of s 205 militates against such an interpretation, and, furthermore, that such an interpretation would open the door to a complete negation of s 205, enabling a company to provide in its articles that even fraudulent breaches of duty shall not be breaches of duty. Both learned authors deny the validity of a clause in the articles which purports to do that, but, as Baker points out, what basis do they have for this denial if they concede that the Articles can provide that a breach of duty is not a breach of duty? Why distinguish between a fraudulent and a non-fraudulent breach of duty? Only if exemption of a director from the consequences of breach of duty is based on "ratification" is it legitimate to distinguish between fraudulent and non-fraudulent breaches of duty. Equity will allow the ratification of non-fraudulent breaches but not of fraudulent ones. But Gower and Gore-Browne cannot logically separate the consequences of declaring a non-fraudulent breach of duty not to be a breach of duty from declaring a fraudulent breach of duty not to be a breach of duty because these learned authors cannot be basing themselves on "ratification". After all, you can only ratify a breach of duty if it is a breach of duty. If, as Gower and Gore-Browne suggest, it is possible to declare that a breach of duty is *not* a breach of duty, then "ratification" cannot at all be pertinent.

Accepting then that the Gower/Gore-Browne interpretation simply does not hold water, what can we say about Article 84(3)? How can we reconcile it with s 205? We would like to submit the following rationalisation, which also has the merit of resolving another point of contention in this field, as we shall show below. The breach of duty which a director allegedly commits when he has an interest in a contract to which his company is a party is that of allowing his duty and his interest to conflict. However, if this director has not voted in favour of the contract; if he has not been counted in the quorum of the board meeting which decided on the contract; if, furthermore, he has disclosed to those deciding to contract (namely, the board) his interest in the contract (assuming that he is aware of both his interest and the proposed contract), can it not be argued that this director has done nothing to allow his duty and his interest to conflict? He has not committed a breach of duty because he has done nothing in the exercise of his powers as director to bring about the contract. The decision has been taken by other directors to whom he has supplied details of his interest. A director acting in a fraudulent manner could never take advantage of this interpretation because it can hardly be supposed that a fraud can so passively be perpetrated.

As stated above, this interpretation would have the merit of resolving another vexed question, namely, the question whether a director can claim the protection of Article 84(3) if he has failed to disclose his interest in the contract, (as required by Article 84(1)). It will be seen from Table A that it certainly does not expressly make compliance with Article 84(1) a condition of reliance on Article 84(3). However, if the interpretation of Article 84(3) that we have suggested above were accepted, it is clear that there could be no question of a director relying on Article 84(3) without having disclosed his interest in the contract (provided he knew of his interest and of the proposed contract). Had he not disclosed his interest, he would be in breach of duty in wilfully concealing from the Board information relevant to its decision to contract. Even if he did not do this fraudulently, Article 84(3) would not avail him because Table A cannot be interpreted as contravening s 205 by sanctioning a breach of duty.

It also follows from our suggested reconciliation between Article 84(3) and s 205 that a director who failed to comply with Article 84(2) (which requires that his vote shall not be counted and that he shall not be counted in the quorum of the board meeting which decides on the contract) would not be able to claim the protection of Article 84(3) either.

Of course, strictly speaking the whole of Article 84 would be redundant if these views were accepted. Article 84(3) would be redundant because directors who had an interest in a contract to which their company was a party would not have committed a breach of duty if they did not participate in causing the company to enter into the contract. Not having commited a breach of duty, they would not require the protection of Article 84(3). Equally, Articles 84(1) and 84(2) would be redundant, because even in the absence of them, directors who failed to disclose their interests, or who exercised their voting power at board meetings to bring the contract about, or who were even counted in the quorum at a board meeting which decided on the contract, would be using their powers as directors to cause the company to enter into a contract in which they had a personal interest; they would be allowing their duty and their interest to conflict. And, according to s 205, no article can save them from the consequences in law of that, or any other breach of duty.[3]

Even if Article 84 is unnecessary from a purely legal point of view, one can quite easily see why it would be desirable to include it, or some similar provision: the law is so confused that to be on the safe side it is best to spell out the directors' obligations in this regard. It would also follow from what has been said above that any article which purported to enable a director to vote at board meetings on a contract in which he had an interest would in fact be purporting to authorise a breach of duty, and would, therefore, be void as a contravention of s 205. *Quod erat demonstrandum.*

Nevertheless the special articles quoted at the beginning of this article, although in our opinion a breach of s 205, does nevertheless seem reasonable and fair for a private company of either a "one-man" nature, a family nature, or even a "quasi-partnership" nature. It would on the other hand be totally unacceptable for a company with outside minority interests, particularly a company which invites the public to subscribe for its shares. Indeed, it would seem that quite a few of the legal quandaries that arise in company law stem from the fact that one company

[3] *It should be remembered, however, that the company in general meeting still has a general power to "ratify" any breach of duty which is not fraudulent (in the equitable sense of the expression).*

law has to cater for business associations of a substantially different character. Now that the EEC's Second Directive on company law harmonisation has come into effect and is forcing on us the idea of a different law for public companies on the one hand and for private companies on the other, perhaps the time is ripe for considering whether in the field of directors' duties, too, separate rules should be drawn up for private and public companies.

Damages

Damages for Lost Years

Alec Samuels

The plaintiff is injured. In consequence, his expectation of life is shortened. Can he recover damages in respect of those "lost years"? Yes. The House of Lords, to its credit, in *Pickett v British Rail Engineering* (*The Times*, November 3, 1978) has overruled *Oliver v Ashman* [1961] 3 All ER 323.

Exiguous and Difficult

Calculating the damages may be exiguous and difficult, but should not present any more of a problem than the calculation of damages for pecuniary loss generally. The calculation of the non-pecuniary loss, the pain and suffering, and awareness of lost expectancy, goes on as before, separately itemised.

Take a man of 50, in the prime of life, normal, fit and healthy, earning say £5,000 a year, having every prospect of going on normally, earning well, perhaps being promoted, until the normal retirement age of 65. As a result of the injury his expectation of life is reduced from 75 to 55. Ten lost years accordingly fall to be compensated. A moderate but just calculation must be made, aiming to apply the principle of full compensation. The sum must be real, not "conventional".

Calculation

Starting point, 10 × £5,000 = £50,000. Reasonable likelihood of promotion, worth say £10,000. Total £60,000. Deduct the plaintiff's own living expenses, they cannot constitute any sort of profit or surplus that he could eventually leave as part of his estate. Deduct, therefore, say 10 × £1,000 = £10,000. Leaving thus £50,000. Further deductions (not necessarily applicable):

(i) Discount for capital payment, money to be invested, say	£10,000
(ii) P might have lost his job through redundancy, say	£1,000
(iii) P might have been killed by C before he reached retirement or severely injured by C so as not to be able to work until retirement, say	£1,000
	£12,000

Therefore total damages for the ten lost years amounts to £38,000. In other words, damages fall to be calculated in exactly the same way as any other calculation for pecuniary loss of earnings over the years. Normally some sort of multiplier may be expected to be used, especially if the number of lost years exceeds ten years or so.

Age of Plaintiff

The plaintiff could be any age at the time of the accident. If a small child, the damages will be minimal, because in such circumstances life is necessarily wholly speculative and unpredictable. If an adolescent, damages will be real but will probably be assessable as small. If a student, similarly, though not so small. If a young man who has actually started in his chosen career or profession or calling or trade then the damages will start to be substantial, because the pattern of the life is likely to be much more predictable. If a middle aged man, say 30-50, the damages will probably be substantial, because the pattern of life is likely to be established and very predictable, subject always to the ordinary risks of life that might afflict any individual at any time.

Salary and Wages

Most of us live by selling our services in return for salary or wages, and those lost salaries or wages are likely to be the only pecuniary loss to be taken into account. But there may be certain additional, even shadowy, matters to be included, eg an annuity, a life interest, a reversionary interest falling in the future, an expected legacy under the will of a testator not yet dead.

Supervening Death

If the plaintiff dies before recovering damages for the lost years then nevertheless the cause of action survives in his estate.

Dependants

In calculating the damages for the lost years no account must be taken of whether or not the plaintiff has dependants, whether or not he looks after them generously or parsimoniously, or would have done so in those lost years, or whether or not he would have provided for them by way of will or intestacy, or have left his estate, or part of it, to a third party. A man may do as he pleases with his own property. What he would have done with his earnings during those lost years is entirely his affair. In practice one may expect that a normal plaintiff would provide for his dependants both during his lifetime and upon death, and that the damages recovered for the lost years will end up in the hands of the dependants. But the plaintiff may spend the damages upon a third party. He may leave the damages by will to a third party—though the dependants may be able successfully to claim against the estate under the Inheritance (Provision for Family and Dependants) Act 1975.

Fatal Accidents Act 1975

But if the plaintiff does sue and recover damages for the lost years, or sues and settles, then on his death in due course the dependants are debarred from bringing an action on their own account under the Fatal Accidents Act 1975. See *Murray v Shuter* [1975] 3 All ER 375. The damages that the plaintiff may recover for the lost years may be greater or smaller than the damages recoverable by the dependants under the Fatal Accidents Act 1975. So the plaintiff and his advisers must consider which would be the wiser course to take. One imagines that usually suing for the lost years would be the wiser course. Who knows when the plaintiff will die, and whether his death can be proved to have resulted from the accident. Nevertheless the dilemma is real. The law will need to be amended, so as to enable both actions to be brought, subject to deduction to prevent duplication of damages.

But the new law represents a most agreeable improvement, both in logic and justice. The defendant tortfeasor can no longer benefit by the fortuitousness of just shortening the life of the plaintiff instead of

killing him outright.

Reform

For a thorough review of the law and for recommendations for legislative change see *Report on Personal Injury Litigation: Assessment of Damages*, Law Com No 56, July 24, 1973, HC Paper 373. This has not so far led to comprehensive legislation. Judicial decision and practice has achieved some of the recommendations. The *Pearson Report on Compensation for Personal Injury* 1978, debated in the House of Commons in November 1978, has raised the much more fundamental issues of the basis of liability and the basis and measure of compensation to be paid.

Revenue Law

Inflation Gains Tax

T Michael Ashe Barrister

A widespread criticism of capital gains tax is that it contains no method by which a gain may be adjusted to take account of the fall in the value of money. Accordingly, capital gains tax has in this era of inflation swept up mere paper gains as real gains.

In *Secretan v Hart* (1969) 45 TC 701, the taxpayer failed to persuade Buckley J (as he then was) that the words "amount or value of the consideration in money or money's worth" in the legislation (para 4(1)(a), Sch 6, Finance Act 1965) allowed for indexation of cost. The court, while expressing sympathy for Mr Secretan, rejected his appeal from the General Commissioners for the reason that had Parliament intended indexation, it would have provided appropriate machinery in the legislation.

Needless to say, Parliament has not yet seen fit to do so, and instead s 48 of the Finance Act 1978 has provided new reliefs which appear to be generous, but which in fact do not meet the considerable criticism levelled against this tax on inflation in recent years. It is understood that the authorities resist indexation on the grounds of difficulties in administration. The new reliefs are principally provided for individuals, though to a limited extent trusts also are included.

For a capital gain of £1,000 or less in a tax year, an individual will pay no tax. On gains exceeding £1,000 and not more than £5,000, there is a reduced rate of 15 per cent. For gains of £5,000 or over, but not exceeding £9,500 the tax is limited to £500 plus half of the amount by which the gains exceed £5,000. If the gains total more than £9,500 the rate is 30 per cent as before.

The provision applies for the tax year 1977/78 and is generous as far as it goes. The relief replaces the small disposals exemption completely, and the half-income rule in the current tax year. For husbands and wives who live together, they are treated as one flesh and get one set of reliefs between them, being divided in proportion to their respective net gains for the year. The reliefs also apply to personal representatives in respect of the disposal of assets of an estate for the year of assessment in which the deceased died and the next following two tax years.

For trusts, the full reliefs apply only in relation to trusts where property or income thereof is applied only or mainly for the benefit of a person who is either mentally disabled or is in receipt of an attendance allowance. Other than that, only trusts created prior to June 7, 1978 are entitled to the reliefs, and then only on a restricted basis, namely the first £500 tax free and for gains over £500 one half of the excess until the normal rate is reached.

As can be seen, the inflation element in gains exceeding £9,500 for individuals will still be fully taxed, as there is not even a lower slice of larger gains taxed on a more favourable basis.

The policy in the United Kingdom on nflation gains is interestingly contrasted with the approach which the Government of the Irish Republic now proposes. In Ireland, a capital gains tax fashioned after the United Kingdom model was enacted by the Capital Gains Tax Act 1975, being brought into effect from April 6, 1974. As in this country, Ireland has recently suffered from high rates of inflation and criticism was voiced at a capital gains tax which failed to have regard to the economic facts of life. In his Budget Statement in 1978, the Irish Finance Minister, Mr George Colley, announced several liberal tax measures, among them the abolition of wealth tax and the indexation of capital gains tax.

Two proposals have now found their way into a Capital Gains Tax (Amendment) Bill. First, that allowable expenditure in the capital gains computation is to be adjusted to take account of inflation and secondly the basic rate of tax is to be 30 per cent (up from 26 per cent) but that this will reduce in respect of certain assets held for three years and over.

As regards the inflation adjustment fo allowable expenditure in respect of disposals in this tax year, a multiplier is given for each relevant year to date. The appropriate multiplier is applied to allowable expenditure and the result is deducted in the computation. Assets held on the base date of April 6, 1974 are to be revalued at market value at that date, and for indexation purposes all allowable expenditure incurred on such assets is regarded as having been incurred on that date.

For future years, the tables of multipliers will be specified in regulations made by the Revenue Commissioners. The multiplier is simply the quotient (rounded up to three decimal places) obtained by dividing the consumer price index number for the tax year of disposal by that price index number for the tax year in which the expenditure was incurred.

The Bill only allows this inflating of expenditure for sums spent twelve months or more before the date of disposal. Further, there are safeguards to ensure that indexation cannot either cause a larger gain from occurring than would otherwise be the case. Also, a monetary loss cannot be changed into a gain, nor a monetary gain into a loss. In such circumstances, the disposal is treated as producing neither a gain nor a loss.

The second, and additional, relief proposed in the Irish Bill grants a lower tax rate to those who dispose of assets held for three years or more. Indeed, the effect of the proposal is to "write down" the tax rate over a 21-year period from 30 per cent for those who dispose of assets held for less than three years to nil for those who dispose of assets held for 21 years or more. The "write down" provision only applies to individuals who are resident or ordinarily resident in Ireland and not to companies. Also, it does not apply to disposals of development land, minerals in the State or exploration rights, or unlisted shares deriving the greater part of their value from such assets.

The Irish Bill shows a workable and extremely generous approach to the effects of inflation on capital gains. HMG please copy . . .

The author is also a member of the Irish Bar.

Book Reviews

Boundaries, Walls and Fences by Trevor M Aldridge. 4th Edn. Oyez Practice Notes No 46. £3.95.

What higher praise can one give to this booklet than to say it represents both Oyez Practice Notes and Mr Trevor Aldridge at their respective bests? It is, in other words, clear, concise, eminently practical and as helpful as the regrettably vague state of the law permits. How laymen marvel at the obscurity of the legal rules on these everyday problems, but what light can be shed upon them here shines forth.

One assumes it was as much the continuing steady demand for the work as any marked alteration in the law that prompted a fourth edition. Nevertheless, it appears that all the recent developments have been incorporated into the text, amongst them the potential of the estate rent-charge as a means of making repairing covenants binding on successors, recent decisions on the use of plans to interpret deeds and even the finicky increase in penalties achieved by the Criminal Law Act. Perhaps Mr Aldridge could next time add *Halsall v Brizzell* as a further weapon to the meagre armoury of devices to make positive covenants run, with an envious glance, too, at the gleaming new automatic in the "Local Authorities only" area labelled section 126, Housing Act 1974.

J E ADAMS

Racial Discrimination by D J Walker and Michael J Redman. Shaw and Sons Ltd. £5.50.

The authors describe this Guide to the Race Relations Act 1976 as a "bird's-eye view of the essence of the Act." That reservation must be borne in mind, for this is not a conventional statutory guide. It cites very few cases and virtually none in detail. But within the limits set, as a comprehensive summary of an important if controversial Act, it is an outstanding success. For absolute clarity of presentation and direct, simple exposition, it cannot be faulted. An excellent starting point for lawyers; a thoroughly acceptable guide for others.

NIGEL PASCOE

Fisher & Lightwood's Law of Mortgage by E L G Tyler. Butterworths. £30.00.

The format of the current edition of *Fisher and Lightwood* closely follows that of its predecessor, so regular users of the book will be able to adapt; but in any event, *Fisher and Lightwood* is a delightfully easy book to find one's way around. Generally, the changes introduced by this edition, although numerous, are of detail and not of dramatic import, but they have been comprehensively and competently woven into the fabric of the text: see, eg, the treatment of the Administration of Justice Acts 1970 and 1973 (pp 326-330) and that of the implications of the *Cuckmere Brick* case (pp 367-370). The most noticeable change is that brought about by the Consumer Credit Act 1974. In particular, the general exposition of the Act (pp 132-155) is lucid and very helpful, and for that reason deserving of special praise.

One of the attractive features of *Fisher and Lightwood* is the useful Collection of Conveyancing and Court Forms in its Appendix. The infants' mortgage forms have now been replaced by a new form 8/8A dealing with a conveyance of mortgaged property between former spouses, and a new form (No 34) has been added, providing a precedent for an affidavit in support of a mortgagee's claim. It is to be hoped that this welcome trend towards the introduction of precedents relevant to modern social and economic conditions continues in future editions, possibly by the introduction for example of "tailor-made" precedents for claims by second or equitable mortgagees. On a connected point, however, a word of caution must be sounded. SI 1977/600 (made on March 30, 1977) which raised the County Court jurisdictional limits has not been incorporated into the text, doubtless because it came too late. Hence the jurisdictional figures (eg at p 390 and 571) must be treated with care. As the editor recognises in his Preface, no attempt has been made in this edition to reshape the book—although perhaps in many areas a fundamental reshaping could be advantageously carried out to reflect more closely the problems of modern commerce. However, there can be no doubt that the present volume wholly succeeds in its objectives.

VICTOR JOFFE

Construction Law by John Uff. 2nd Edition (Concise College Texts series). Sweet & Maxwell. 1978. £5.70. £3.40 (paperback).

The first edition of John Uff's *Construction Law* had much to commend it but it did not deal with certain aspects of the law in sufficient detail to enable a reviewer to recommend it as a complete student's guide to this rather complex subject. This cannot be said of the second edition. As well as having been skilfully and comprehensively updated, it has been so expanded that one need not hesitate to advise degree, diploma and professional post-graduate students in architecture, quantity surveying, building management and civil engineering to buy it. There is more comprehensive treatment of the JCT (RIBA) and ICE conditions and new sections on GC/Works 1 and FIDIC. The student will find the chapter on Special Contracts (especially the Sale of Dwellings section) extremely useful if read in conjunction with the chapter on Tort. It might be mentioned that since the book went to press Lord Denning MR's dictum in *Esso v Mardon* (p 174) has been applied in *Midland Bank v Hett Stubbs & Kemp* [1978] 3 All ER 571 in a judgment by Oliver J of quite outstanding brilliance.

Mr Uff has achieved a remarkable combination of conciseness and accuracy. Your reviewer has only been able to find two errors worth mentioning. First, there was not a nominated supplier in *Shanklin Pier v Detel Products* [1951] 2 KB 854 but a specified product (p 97). This is important because an architect can get the benefit of a collateral warranty without exposing his client to the perils of nomination. Secondly, the statement on p 114 that bonds must be under seal though true is misleading. A contract of suretyship under hand is perfectly valid if a main contract is signed on the strength of it.

Readers seeking more detailed information can turn to the magnum opus of Mr Uff's former pupil-master, Donald Keating QC. Your reviewer regrets a misleading passage in his recent review of the 4th Edition of *Keating*. Although it is correct that Mr Keating does not annotate the RIBA Conditions of Engagement, he does comment on some of them in Chapter 12 and at p xi. What your reviewer had in mind was the fee scale itself which is vulnerable to attack under the Unfair Contract Terms Act 1977 because it is recalculated on the "Total Construction Cost" although this may well include substantial sums attributable to the architect's own errors and delays—see, eg, JCT Clauses 4, 5, 12(2) and 24(1)—especially 24(1)(a). It is open to objection on other grounds as well.

ADRIAN L JULIAN

Circuit Bench

His Honour Judge Buckee DSO retired on December 1 from the Circuit Bench.

The Practitioner

Statutory Instruments 18;
Court of Appeal (Civil Division) Transcripts 19;
Case Notes (The Times) 20

Family Division Practice Note

Directions for Trial: Defended Causes Pre-Trial Review

1. The proviso to rule 33(4) of the Matrimonial Causes Rules 1977 enables a registrar to treat a request for directions for trial in a defended cause as a summons for directions under RSC Order 25. In that event, the registrar is required to give the parties notice of a date, time and place at which the request will be considered (a "pre-trial review"). The provisions of RSC Order 34, rule 5(3) (which provide for the parties to furnish the Court with any information it may require as to the state of readiness of the case for trial) are applied to defended matrimonial causes by rule 46(4) of the Matrimonial Causes Rules 1977.

2. As from the beginning of the Hilary Term 1979, every request for directions for trial relating to a defended matrimonial cause proceeding in the Principal Registry will be referred to a registrar for a pre-trial review appointment to be fixed. Appointments are likely to be fixed for hearing from February onwards.

3. The prime objective behind the pre-trial review procedure is to enable the registrar to ascertain the true state of the case and to give such directions as are necessary for its "just, expeditious and economic disposal". In practice, in those District Registries where the system of pre-trial review has been applied to matrimonial causes, it has been found that under the registrar's guidance the parties are often able to compose their differences, or to drop insubstantial charges and defences, and to concentrate on the main issues in dispute. Experience in the District Registries has shown that, following pre-trial review, many cases proceed undefended under the special procedure, with consent orders as to financial provision or in respect of the custody of, or access to, the children. Where contested issues remain, the registrar is able to give directions to facilitate their expeditious determination at the subsequent hearing before the Judge.

4. To avoid possible adjournments and delay, it is especially important that the parties are represented on a pre-trial review hearing by their legal advisers who are fully conversant with the facts of the case, including Counsel if he has been so instructed. The personal attendance of the parties on the review hearing is normally desirable.

This Practice Note is issued with the approval of the President of the Family Division.

R L BAYNE-POWELL
Senior Registrar
December 19, 1978

Home Office Circular No 213/1978

Remand of Girls to Prison Department Establishments

Home Office Circular 128/1978 of August 16, 1978 (*NLJ*, August 24, 1978, p 832) said that the Home Secretary, in exercise of the powers conferred upon him by sections 34 and 69 of the Children and Young Persons Act 1969, had laid before Parliament on August 1, 1978 the draft Children and Young Persons Act 1969 (Transitional Modifications of Part I) Order 1978 excluding the application of section 23(2) and (3) of the Children and Young Persons Act 1969 to female persons under the age of 17. I now write to tell you that, on Thursday, November 23, a motion was successfully moved to withdraw the Order in the form of the draft laid. A slightly amended version, with the same effect, was laid on Friday, November 24 and, if no adverse resolution is passed during the forty sitting days during which the draft is required to be laid, the Order will come into operation on March 1, 1979, that is, two months later than provided for in the original draft Order.

In the interest of economy it is not proposed to issue a further circular when the Order is made and recipients of this letter, unless they hear to the contrary, should assume that the application of section 23(2) and (3) of the Children and Young Persons Act 1969 will cease to apply to girls on March 1, 1979. As from that date, therefore, where a court remands a girl under the age of 17 charged with or convicted of an offence, or commits her for trial or sentence (other than a committal to the Crown Court with a view to borstal training) and she is not released on bail, she will become the responsibility of the local authority.

M A CLAYTON
December 15, 1978

New Cases

Divorce: Special Procedure

Day v Day
Court of Appeal, December 21, 1978

The Court of Appeal allowed an appeal by the petitioner wife against an order giving the respondent husband leave to file an answer out of time to her petition of divorce. Delivering the judgment of the Court of Appeal Ormrod LJ drew attention to the fact that this was the first occasion on which the Court had had to consider a question arising under the Special Procedure for dealing with undefended causes.

W filed a petition for divorce on November 8, 1977. It was served on H on November 17. At the time they were living in the same house. H regarded the marriage as continuing quite normally. He did not acknowledge receipt but did consult a solicitor. Some correspondence ensued indicating that H intended to defend the suit but no further steps in the proceedings were taken until over six months had elapsed. On July 24, 1978 W's solicitors

served the petition personally on H. Acknowledgment of intention to defend dated August 3 was received. No answer was filed by H so on September 15 W's solicitors applied in writing to the registrar for directions for trial under the Matrimonial Causes Rules 1977, r 33. Since the suit was apparently undefended the registrar gave the appropriate directions, and gave a certificate under r 48(1)(a) that W had sufficiently proved the contents of her petition and fixed November 15 for the pronouncement of the decree. H applied for legal aid and was granted an emergency certificate. H attended and was represented by counsel at the appointment before the judge on November 15. W was also present because there was a child under 10 but was not represented. W's solicitor was in court on another matter. H's counsel "showed cause" why the decree should not be pronounced and applied for leave to file an answer out of time. W's solicitor was given an opportunity to be heard. A short affidavit by H in support of his application was put before the judge who then gave leave to file an answer out of time and took the case out of the special procedure list.

Ormrod LJ: . . . Mr Singer, on behalf of the wife, has raised two important questions. The first is whether the judge should have adjudicated on the husband's application at that stage, and the second is what principles should be applied in deciding whether to grant or refuse it. To answer these questions the special procedure must be examined very carefully.

The first point to be made is that its description has become a complete misnomer. It is no longer the "special procedure"; it is now the ordinary procedure for dealing with undefended causes of *all* kinds, and therefore of great importance to very large numbers of ordinary people who can no longer obtain legal aid for this part of the divorce process . . . It has been progressively extended until under the Matrimonial Causes Rules 1977 it now applies to all classes of undefended causes, including those in which a notice of intention to defend has been received but no answer has been filed . . . .

Mr Wilson made a valiant effort to maintain that the decision still remained in the judge but in our view so to hold would be to create a legal fiction. The registrar certifies that the petitioner has proved the contents of the petition and is entitled to a decree. The requirements of the Matrimonial Causes Act 1973, s I(4) therefore have been complied with, and subject to ss 3(3) and 5 of the Act, a decree must be granted. Sub-section (4) refers to the "Court", not to a "Judge".

It is, accordingly, impossible to regard the pronouncement of the decree by the judge as anything more than a formality, and it is difficult to see how he can have jurisdiction to do anything but make the pronouncement, save possibly to postpone it until a later date to give some time for other steps to be taken, eg to apply to stay or set aside the registrar's certificate. In this respect we think that the last part of paragraph 23 of the Registrar's Internal Direction of May 22, 1978 which reads "If opposition is expressed against a decree the judge will remove the case from the Special Procedure list", is wrong, and we doubt whether it is appropriate to invite the respondent or other persons at that stage to "show cause against the decree". Other persons have no locus standi in the matter at all and since the petitioner is by then entitled to a decree under s 1(4), the most the respondent can do is to ask for a postponement of the actual pronouncement. This is not purely formalistic; it is also realistic since the Rules expressly state that the petitioner need not be present. It would be unjust that any order should be made at that stage which in any way prejudiced the petitioner's position without his or her knowledge and consent.

The judge's role in this new procedure is reminiscent of the old practice relating to the making of decrees absolute . . . Similar questions arose about the power of a judge to hold up a decree absolute at that stage. The reference in the Registrar's Direction to "showing cause" is also an echo of the practice relating to decrees absolute (see section 9(1) of the 1973 Act which re-enacts earlier sections which were in similar terms, and note that no party to the proceedings is permitted to show cause).

In the light of these considerations we think the learned judge should not have entertained any application by the respondent for leave to file an answer out of time or for any relief other than a short postponement of the pronouncement of the decree to give time for a proper application to be made to set aside the registrar's certificate and for time to file an answer. No doubt the learned judge was misled by the Registrar's Direction to which we have referred.

The second question concerns the principles to be applied when considering whether or not to grant leave to file an answer out of time. It follows from what we have already said that it is difficult not to regard the registrar's certificate in the Special Procedure under rule 48 as tantamount to a decree nisi under the former procedure. Consequently, an application by a respondent after the registrar's certificate has been made should, logically, be dealt with on the same lines as an application for a re-hearing after decree nisi under the former procedure. If this is right the present application falls to be dealt with in accordance with the principles laid down by a strong Divisional Court (Sir Jocelyn Simon P and Scarman J) in *Owen v Owen* [1964] 2 All ER 58, that is to say the application should have been refused unless there were "substantial grounds for the belief" that the decree would have been obtained "contrary to the justice of the case".

The analogy, however, is not wholly accurate because in some respects a respondent is less favourably placed under the special procedure than he was under the ordinary procedure in force in 1964 and too rigid an approach to these matters may cause injustice particularly now that many people will have to act in person in these matters.

Under the Special Procedure Rules the filing of an answer is the crucial step since it alone will stop the progress from petition to registrar's certificate under rule 48 and the almost inevitable pronouncement of a decree. But respondents must find the rules difficult to follow. For example, rules 15(1) and (2) and 18, and Forms 5 and 6 which accompany the petition at the time of service are quite clear. Notice of intention to defend must be given within 8 days and an answer filed within 21 days thereafter making 29 days in all. But rule 15(3) and rule 18(2) seem to contradict this simple scheme because they respectively provide that a notice of intention to defend or an answer may properly be given or filed "at any time before directions have been given for the trial of the cause". But a respondent does not know and is not told when directions for trial are going to be applied for under rule 33(1). Under the ordinary procedure he *does* receive notice that directions have been given and is informed of the date and place of trial (see rule 33(2)). Under the Special Procedure the registrar enters the cause in the special procedure list but does *not* notify the respondent that he is about to consider the evidence with a view to making his certificate that the petitioner has proved his or her case. The first that the respondent knows of what is happening, is the receipt of notice of the date and place for the pronouncement of the decree, by which time the process of adjudication is over.

Thus, if he allows the original 29 days to elapse without filing an answer he is in the dark until he is told the date for the pronouncement of the decree, whether or not he has given notice of intention to defend. Unless he studies the Rules he is also unaware of his rights under rule 15(3) and rule 18(2) and is necessarily unaware of the deadline, ie the date when

directions for trial have been or are about to be given.

These handicaps must be borne in mind in considering whether to grant an application by a respondent to enable him or her to defend the suit after the initial 29 days have elapsed. They may have an important bearing on whether the justice of the case requires that he be given, in effect, leave to defend.

The cases to which we were referred, namely, *Huxford v Huxford* [1972] 1 All ER 330, *Collins v Collins* [1972] 2 All ER 658, *Spill v Spill* [1972] 3 All ER 9 and *Leebetter v Leebetter* [1974] 5 Fam Law 49, with the possible exception of *Huxford*, which was decided on a different basis, seem to conform to the principles of *Owen v Owen* (supra).

So far as the present case is concerned, for reasons which we have given, we think that the learned judge should not have dealt with the husband's application as he did and did not exercise his discretion on the right principles so that we are free to use our own discretion in the matter. On the facts it is, we think, clear that the husband was properly advised in November and December 1977 and had ample opportunity to give notice of intention to defend and to file an answer but did not do so hoping, like the ostrich, that if he kept his head down the threat of divorce would go away. Again following re-service of the petition in July 1978 we think he must have understood that the petitioner's mind was made up to proceed with the divorce and, having sent a notice of intention to defend in August 1978, had ample time to file an answer before directions were given on 26th September 1978. We do not, therefore, think that the justice of the case requires that there should be a re-hearing or that he should now be permitted to defend the wife's suit for divorce. Consequently, the appeal will be allowed, the judge's order will be set aside and we shall direct that the cause be restored to the special procedure list for pronouncement of the decree as soon as possible.

Jan Peter Singer (instructed by Milnes & Milnes) appeared for the wife; *Basil Webb* (instructed by the Mary Ward Legal Centre) appeared for the husband; *Nicholas Wilson* for the Queen's Proctor.

"Contract of Insurance"

Medical Defence Union Ltd v
Department of Trade
Chancery Division, December 21, 1978

Megarry V-C granted the Medical Defence Union a declaration that it does not carry on any class of insurance business in Great Britain within the meaning of the Insurance Companies Act 1974. The Medical Defence Union (the Union) has more than 80,000 members of whom, save for 4,500 dentists, all are medical practitioners. The Union provides three categories of service for its members: the conduct of legal proceedings on behalf of members; indemnifying members wholly or in part against claims for damages and costs; and giving advice on a wide variety of problems, including employment, defamation and professional and technical matters, and providing educational guidance on medical and medico-legal problems by means of publications and films. Extracts from the Vice-Chancellor's judgment are reproduced below.

Megarry V-C: . . . Put shortly the major issue in resolving this question is whether the term "contract of insurance" applies to a contract under which a member of the Union against whom some claim has been made can merely require the Union to consider whether to conduct the proceedings on his behalf and whether to provide him with some indemnity, and has no right to require the Union to assist him in this way. In other words, the question is whether this is a "contract of insurance" where the benefits are discretionary and not obligatory, and the members' contractual right is no more than a right to require the Union to consider properly any request for assistance of the kind that he makes. There is a subsidiary question whether as regards the conduct of proceedings (as distinct from the grant of indemnity) the benefit is merely discretionary, or whether the member has a right to it.

. . . The Insurance Companies Act 1974 consolidates earlier Acts from 1958 to 1973. The Life Assurance Companies Act 1870 first introduced a system of registration which subsequent Acts extended to forms of insurance other than life assurance. In very broad terms the object of the legislation is to enable the appropriate Government department (today the Department of Trade) to take steps to ensure the financial health of insurance companies, and to defeat those who would establish insurance companies, collect the premiums, and then leave the companies with assets which are inadequate to meet valid claims . . . If the Union is an insurance company, Part II of the Act, comprising ss 12-61, applies. Part II establishes a system of control of insurance companies, consisting partly of requirements which the companies must observe, and partly of powers of intervention exercisable by the Secretary of State with various other provisions. Section 57, I may say, gives the Secretary of State a discretionary power to relax the provisions for particular companies. What is at issue is whether the Union is subject to this system of control, or free from it.

The starting point is s 12(1) of the Act. This provides that, subject to the provisions of the section, Part II of the Act "applies to all insurance companies . . . which carry on insurance business within Great Britain." By s 85(1), unless the context otherwise requires, "insurance company" means "a person or body of persons (whether incorporated or not) carrying on insurance business". The term "insurance business" simpliciter is not defined, but the subsection sets out, mainly referentially, definitions of various specific forms of insurance businesses . . .

The Act contains no definition of "contract of insurance". True, s 85(1) provides that unless the context otherwise requires, " 'contract of insurance', except in sections 83 and 84, includes a contract to pay an annuity on human life" but this gives little assistance on the meaning of the term . . . It became common ground that the term fell to be construed, in its context, according to the general law. It was also common ground that there was a contract between each member of the Union and the Union, constituted by the Union's acceptance of each member's application for membership on the term of the memorandum and articles of the Union . . . The central question emerged as being whether each contract was a contract "of insurance", and so the main issue came down to the meaning of the one word "insurance" in the expression "contract of insurance".

The leading authority, I think, is the judgment of Channell J in *Prudential Insurance Co v CIR* [1913] 3 KB 658, as read in the light of *Gould v Curtis* [1913] 3 KB 84. From these cases, it appears that a contract is a contract of insurance if three elements are present . . . Before I turn to the three elements, I should say that from *Gould v Curtis*, especially the judgment of Buckley LJ at p 95, and from *West Wake Price & Co v Ching* [1957] 1 WLR 45 at 51, it appears that there are two categories of insurance which may respectively be called indemnity insurance and contingency insurance . . .

With these two categories of insurance in mind, the three elements in a contract of insurance may be expressed as follows: and in this I draw largely on what Channell J said in the *Prudential* case at p 663. First, the contract must provide that the assured will become entitled to something on the occurrence of some event. This, of course, is the disputed element. For Mr

Chadwick [counsel for the Department of Trade] it is "some benefit", whereas for Mr Alexander [counsel for the Union] it is "money or money's worth". To this I shall have to return. Second, the contract must be one which involved some element of uncertainty. Mr Chadwick would add "outside the control of the insurer". This may be right, but I do not have decide the point . . . Third, the assured must have an insurable interest in the subject-matter of the contract. On the three elements as a whole, I would follow Templeman J in *Department of Trade & Industry v St Christopher Motorists Association* [1974] 1 WLR 99 at 106, and say that I do not aspire to any exhaustive or comprehensive definition, good for all purposes and in all contexts. I only say that for the purposes of this case it seems to me that a contract which contains these three elements is likely to be a contract of insurance, and a contract that lacks any of them is likely not be a contract of insurance.

On the facts of this case it seems clear that all three elements are present, subject to the disputed point on the first element. That point arises in this way. On the face of the memorandum and articles, a member of the Union has no right to require the Union to conduct legal proceedings for him, and no right to require the Union to indemnify against claims for damages. All that he has is the right to have his request for the Union's help under these heads properly considered by the Council or by one of its committees . . . Yet although the prospects of such a request succeeding are great, all that a member has by way of right is that his request should be properly considered, and of course, if it is granted, that the Union should conduct the proceedings or indemnify him, or both. On that footing Mr Chadwick contends that although this right is not a right to money or money's worth, it is of value, and so is a benefit; and for the first of the three elements of insurance, all that is required is that on the occurrence of some event the assured will become entitled to some benefit. Mr Alexander, on the other hand, says that this is far too wide. The first element is satisfied if on the occurrence of the event the assured becomes entitled to a benefit consisting of money or money's worth, but not if the only benefit is something else.

. . . The right to have a request relating to proceedings or an indemnity properly considered by the Union is plainly a benefit, but equally plainly it is not money or money's worth.

. . . I do not know whether a satisfactory definition of a contract of insurance will ever be evolved. Plainly it is a matter of considerable difficulty. It may be that it is a concept which it is better to describe than to attempt to define . . . It is enough if I can find a principle which suffices for the decision of the case before me. Plainly a provision for the payment of money is one of the usual elements in a contract of insurance. The main difficulty lies in formulating what extension of this concept there should be; for plainly there must be some.

If the extension is framed in terms of the equivalent of money, then this will be both limited in extent and consonant with the central concept. If on the other hand the extension is framed in terms of "some benefit" then that seems to me to be far more than a mere extension: it is a reformulation of the concept in wider terms. In other words, "money's worth" is merely an extension of "money" whereas "benefit" is no mere extension of "money" but a wider concept which engulfs "money". "Money" would then be subsumed under "benefit" with many other things. Obviously much is a "benefit" which is not money or money's worth, ranging from matters such as peace and quiet to the pleasure of listening to the arguments of counsel in this case.

I am quite unable to see any justification for replacing "money" or its equivalent by "benefit" as a constituent part of the definition of a contract of insurance. I can see nothing in the authorities which gives any real support for so wide and extensive a generalisation, especially as the term "money or money's worth" seems to be adequate for all normal circumstances. It may be that in view of the *St Christopher* case some further addition should be made so as to cover explicitly the provision of services, but I shall defer the consideration of this until I turn to the services provided by the Union in this case.

In rejecting the term "benefit", I may say I think that one is in a different world from the world of insurance when the only contractual right is a right to have a claim fairly considered. No doubt one must not attach too much importance to the basic meaning of words; but terms such as "insure" and "assure", like "ensure", seem to me to convey the sense of making something certain, and not merely of giving a hope or expectation, no matter how well founded. When a person insures, I think that he is contracting for the certainty of payment in specified events, and not merely for the certainty of proper consideration being given to his claim that a discretion to make a payment in these events should be exercised in his favour. The certainty must be direct, and not at one remove. I may add that I think that my views on this point are supported, at least to some extent, by *CVG Siderurficia del Orinoco SA v London Steamship Owners Mutual Insurance Association Ltd*, unreported, November 20, 1977. One may also speculate on the prospects of success of an insurance company if its policies of insurance give no contractual right to any payment, but only a right to have any claims properly considered by the directors.

. . . In view of the *St Christopher* case it may be that the term "money or money's worth" will not suffice by itself. A possible addition would be "or the provision of services to be paid for by the insurer". The last seven words are intended to reflect the fact that in the *St Christopher* case the provision of the services for each member was an additional cost to the club, incurred when the member made his claim, and was not merely of the general costs of running the club for the benefit of members generally. As at present advised, I would hesitate to omit these last seven words. If members of a club or other body have the right to be given advice and assistance by the staff of that body, so that the provision of this advice or assistance to any individual member adds nothing to the expenses of the body, I doubt whether this could fairly be regarded as being insurance.

Looking at the case as a whole, I have no hesitation in rejecting the contention that the Union is an insurance company carrying on insurance business within the meaning of the Act of 1974. I did not have to decide whether "money or money's worth", with or without an addition relating to providing services . . . is the right phrase to appear in the first of the three elements of a contract of insurance. What I do decide is that "benefit" is far too wide an expression, and I reject it. In particular, I reject the contention that the right to have an application properly considered suffices for a contract of insurance. I also consider that the general nature of the business carried on by the Union is too far removed from the general nature of the business carried on by those who are generally accepted as being insurers for the Union's business to be fairly regarded as the affecting and carrying out of contracts of insurance. I accordingly hold that the Union is entitled to a declaration of the type claimed . . .

Robert Alexander QC and *Christopher Clarke* (instructed by Messrs Hempsons) appeared for the Medical Defence Union and *John Chadwick* (instructed by the Treasury Solicitor) appeared for the Department of Trade.

Equity: Imperfect Gift

Pascoe v Turner

Court of Appeal, December 1, 1978

P and T lived together as man and wife and lived in a house which P bought. Subsequently P began an affair with another woman, but, according to T, told T that he would never see her without a roof over her head, and that the house was hers. There was, however, nothing in writing. In reliance upon P's statement that he had given her the house she did work on redecoration, improvement and repairs. P left her in 1973 when T had about £1,000 of her own capital left. In 1976 P sought an order for possession. At that date T had only £300 left, whereas compared with her, P was a rich man. T counterclaimed.

It was held (Orr, Lawton and Cumming-Bruce LJJ) that in view of the Law of Property Act 1925, s 53, the gift of the house remained an imperfect gift and there was nothing in 1973 from which an inference of a constructive trust could be drawn. But T had proved such encouragement and acquiescence in her carrying out the redecorations and repairs that an equity arose to do justice to her. In the circumstances equity would be satisfied by an order being made that the house be transferred to her in fee simple. (*Dillwyn v Llewelyn* (1862) 4 de G F & J 517, and *Crabb v Arun District Council* [1975] 3 All ER 865, considered.)

Mr Howard Aplin (instructed by Gregory Rowcliffe & Co for G C Davies & Partners, Redruth) appeared for the plaintiff and *Mr M E Brabin* (instructed by Robbins, Olivey & Lake for Trott & Batten, Camborne) appeared for the defendant.

Divorce: Financial Provision

Chand v Chand

Court of Appeal, November 1, 1978

The parties married in 1973 but had been cohabiting long before that date. There were two children of the family, a girl born in 1961 and another girl born in 1966. The elder child was not a child of the husband. The parties separated soon after the marriage, and the marriage was dissolved in 1977. The wife applied for financial provision. The husband was still living in the matrimonial home. Before the registrar the wife gave oral evidence in which she put the value of the house at £10,000. The husband put it at between £5,000 and £7,000. The wife's solicitors, however, declined to disclose a report made by a surveyor acting on her behalf. The registrar took the value at about £8,000 and ordered the husband to pay a lump sum of £2,300 to the wife. This order was confirmed by a county court judge. The husband asked for leave to appeal on the ground (inter alia) that when the case came on the judge said that he recognised the name "Chand", and asked whether there was any objection to his trying the case. Counsel on each side said that there was not. But 20 minutes later the husband realised that the judge was the judge who had been sitting in the Crown Court hearing an appeal by him in a criminal matter. The husband had then objected to the judge continuing but the trial proceeded. The application was made 83 days out of time. The husband had twice been advised by counsel that there was no grounds for appeal but eventually proceeded to get a surveyor's report for himself. The report stated that the value of the property was about £4,000 or £5,000.

It was held (Ormrod, Waller and Brandon LJJ) that leave to appeal would be granted. It was quite unreasonable for the husband to take objection to the judge trying the case at the stage when it was taken. The report of the surveyor employed by the wife's solicitors should have been disclosed. The registrar should have ignored the wife's valuation of £10,000 as being wholly unreliable. Further, the husband's ability to raise the money for a lump sum had not been considered at all.

Mr D Marshall Evans (instructed by Howorth & Gallagher, Liverpool) appeared for the husband, and *Mr William Braithwaite* (instructed by Louis Berkson & Globe) appeared for the wife.

Redundancy: Trial Period

Turvey and Others v C W Cheney & Son Ltd

Employment Appeal Tribunal, December 7, 1978

T and three other persons were employed by C Ltd as polishers. In June 1977 following a decline in the trade, work in the polishing department diminished and was about to cease. On June 1 T and the other three were informed and were offered a job in a different department. Three of the four said that they would take the different jobs, which they were offered, on trial, ie they did not at once make a new contract or renew the contract of employment by agreeing to a variation in its terms by working in a different job which under their existing contract C Ltd could not require them to do. As regards the fourth employee, it appeared that she worked at the new job with an implied reservation that she was doing so on trial. All four employees worked in the new jobs for more than four weeks but then, finding that the new jobs did not suit them, left of their own accord. All applied to an industrial tribunal for a redundancy payment on the ground that (i) the company's action in informing them that there would be no more work for them in the polishing department, which was the only work the employees could, as a matter of contract require them to do, amounted to a repudiation of their contracts of employment; (ii) in the circumstances they were entitled to treat their contracts as at an end; and (iii) by the operation of the Redundancy Payments Act 1965, s 3(2)(c) as amended by the Employment Protection Act 1975, they were to be treated as having been dismissed. C Ltd denied liability on the ground that (i) "the other jobs took effect immediately after determination of existing work", ie there were variations and so new or renewed contracts of employment when the employees started to do their new jobs; (ii) they continued to do work under their new jobs or renewed contracts for more than the trial period provided for in s 3(3), (5) and (6) of the 1965 Act, as amended; and (iii) they were not to be treated as having been dismissed but had themselves brought their contract of employment to an end. The industrial tribunal held that the claims failed.

Section 3 of the 1965 Act, as amended stated: "(2) . . . an employee shall be treated as dismissed by his employer if, but only if (a) the contract under which he is employed by the employer is terminated by the employer, whether it is so terminated by notice or without notice; or (b) where under that contract he is employed for a fixed term, that term expires without being renewed under the same contract; or (c) the employee terminates that contract with or without notice, in circumstances . . . such that he is entitled to terminate it without notice by reason of the employer's conduct."

Section 3(3) stated: "If an employee's contract of employment is renewed, or he is re-engaged under a new contract of employment in pursuance of an offer . . . made by his employer before the ending of his employment under the previous contract, and the renewal or re-engagement takes effect either immediately on the ending of that employment or after an interval of not more than four weeks thereafter, then . . . the employee shall not be regarded as having been dismissed by his employer by the ending of his employment under the

previous contract." Section 3(5) went on to say: "In a case to which sub-s 3 applies, the provisions of the contract as renewed or of the new contract as to the capacity and place in which the employee is employed, and as to the other terms and conditions of his employment differ . . . from the corresponding provisions of the previous contract, there shall be a trial period in relation to the contract as renewed or the new contract . . ." The employees appealed.

It was held (Bristow J and Miss P Smith) that the appeal would be allowed, and that the application would be remitted to a fresh tribunal for rehearing. An employee in a s 3(2)(c) situation had a period in which he would make up his mind whether he liked his new job. If his decision was not to take the new job he was treated as dismissed at the moment he brought that period to an end by leaving the job. If his decision was to take the new job and he brought the period to an end by making a new contract or renewing the old one with variations, he then had the further trial period treated by s 3(5) in which to make up his mind. So he had his common law protection plus his statutory trial period protection. The original tribunal had erred in law and the new tribunal must make all the necessary findings of fact in concluding whether on the evidence, the employed had committed themselves to the new contract or contract with variations. (*Air Canada v Lee* [1978] IRLR 392 considered.)

VAT: "Suitable"

Commissioners of Customs and Excise v Mechanical Services (Trailer Engineers) Ltd

Court of Appeal, December 13, 1978

M Ltd sold couplings and winches to customers who might have intended using them as part of the towing apparatus and for lifting boats and trailers. A VAT tribunal held that the goods were not "goods of a kind suitable for use as parts" of boats and of trailers being accessories to boats within the provisions of Group 3 of Sched 7 to the Finance (No 2) Act 1975, and therefore were not liable to the higher rate of VAT. The tribunal considered that the word "suitable" should be construed narrowly to mean "designed" or "adapted". The Commissioners of Customs and Excise appealed.

It was held (Megaw, Browne and Waller LJJ) that the appeal would be dismissed. If the phrase "suitable for use as parts of goods" was taken literally, it would cover a wide range of goods, and would apply to pieces of wood which were cut to particular lengths for manufacturing or repairing a trailer. Taking the broad meaning of each these could be covered by the definition. But the statute could not have been intended to cover all the new material. The phrase contained the words "of a kind suitable for use as . . ." The words "of a kind" must be given some meaning. "Kind" suggested a limitation. It might mean description or genus. Therefore the description must be related to boats. It must be either of a description suitable for use or of a genus suitable for use in boats. The limitation was that it applied only to goods of a kind which were related to boats. The fact that the individual articles were incidentally suitable did not render them liable to a higher rate of VAT.

Philip Vallance (instructed by the Solicitor for Customs and Excise) for the Crown; *Andrew Park QC* (instructed by Porter, Hope and Porter) for the taxpayer company.

Social Priority School

Lewis v Dyfed County Council

Court of Appeal, December 1, 1978

L was a teacher at Milford Haven Central Secondary School, which was designated as a social priority school by the Designating Committee of Burnham Committee. Social priority schools came into existence by the Remuneration of Teachers (Primary and Secondary Schools) (Amendment) Order 1975 made by the Secretary of State for Education and Science pursuant to the powers conferred by the Remuneration of Teachers Act 1965. Section 12(5) of the Act stated: "For the purpose of this section (a) a social priority school is a school other than a special school which is designated as a social priority school by a committee ('the Designating Committee') consisting of the persons who are for the time being members of, and acting in accordance with the rules of procedure of the committee constituted under s 1(1) of the Remuneration of Teachers Act 1965 for the consideration of remuneration payable to teachers in primary and secondary schools; (b) in exercising their functions under sub-s (a) above the Designating Committee shall take into account schools proposed by local education authorities for their consideration; and in designating a school regard shall be had to one or more of the following criteria:— (i) the social and economic status of the parents of children of the school; (ii) the absence of amenities in the homes of children attending the school; (iii) the proportion of children in the school receiving free meals and belonging to families in receipt of supplementary benefits under the Ministry of Social Security Act 1966; (iv) the proportion of children in the school with serious language difficulties; and (v) the proportion of retarded, disturbed and handicapped children." L brought an action against the county council in whose area the school was situated to recover the additional payments due to him as a result of the designation of the school. The Council refused to pay on the ground that the procedure set out in s 2 of the Act had not been followed, for the Designating Committee only came into being on February 12, 1975. They did not take into account any list prepared by the local authority, but simply rubber-stamped a list agreed on December 5, 1974. It was purely a formal matter. The Designating Committee did not themselves have regard to one or more of the criteria set out in s 12. Further, the Secretary of State had acted ultra vires in setting up a Designating Committee for the Act of 1965 entrusted the task of making recommendations to the Burnham Committee, and gave him no power to create a Designating Committee and entrust that Committee with the task of making lists or reviewing them.

It was held (Lord Denning MR, Shaw and Brandon LJJ) that L was entitled to recover the additional payment. There was nothing in the Act which precluded expressly or by necessary implication the setting up of a committee to be known as the Designating Committee. The setting up of such a committee was covered by the general provisions of s 7(3) under which any order might contain such supplementary and incidental provisions as the Secretary of State might consider necessary or expedient. Where the Act provided that the Secretary of State was to prepare a draft document or order so as to give effect to the recommendations of the Burnham Committee and later to modify it as necessary to give effect to representations made with respect to it by that Committee, it did not require him to follow precisely the language of such recommendations or representations. The draft document or order should be prepared, and later modified, so as to put into a legally acceptable and effective form the real substance and intent of such recommendations and representations. It would be excessively technical

and inconsistent with the substance and commonsense of the matter to treat the members of the Designating Committee as if they had never been aware of their previous deliberations and decisions as members of the Burnham Committee It would also be excessively technical to treat the lists submitted by the local authorities to the Burnham Committee for their consideration as not also being lists submitted to the Designating Committee for their consideration. It was unnecessary for the Burnham Committee themselves personally to have regard to one or more of the five specified criteria. The only reasonably practicable way of carrying out the task was that adopted by them, ie inviting the local authorities to have regard to one or more criteria, and to submit lists on that basis.

Income Tax: No Return

Napier v Inland Revenue Commissioners
Court of Appeal, November 30, 1978

In *Napier v Inland Revenue Commissioners* the taxpayer failed to comply with a requirement served on him under the Taxes Management Act 1970 to make a return of his income for the years ending April 1973, 1974 and 1975. He appeared before the Commissioners, and did not dispute that he received the notices requiring him to make the returns, and admitted that he did not deliver the returns. But he complained of misconduct on the part of his inspector of taxes and members of the inspector's staff, and claimed that it was improper in the circumstances that he should have any further dealings with the inspector. He also claimed that he had understood from an article in the papers that there was a general amnesty which relieved him and others from any obligation in respect of the returns for which the inspectors had asked. The Commissioners imposed a penalty of £25 in respect of each year in which he had failed to make a return. They considered that (i) even if the taxpayer had a legitimate grievance against his inspector of taxes, that did not relieve him of the obligation to make a return; and (ii) he had not taken any alternative steps which were open to him, eg to ask the Board of Inland Revenue for another inspector to deal with his affairs or to seek guidance from the Commissioners themselves. The taxpayer appealed, relying on s 118(2) of the Act (which stated: "For the purposes of this Act a person shall be deemed not to have failed to do anything required to be done within a limit of time if he did it within such further time, if any, as the Board or the Commissioners or the offices concerned may have allowed; and where a person had a reasonable excuse for not doing anything required to be done, he shall be deemed not to have failed to do it if he did it without unreasonable delay after the excuse had ceased . . .").

It was held (Orr, Lawton and Cumming-Bruce, LJJ) that the appeal would be dismissed. It was entirely clear that the Commissioners had found that there was no reasonable excuse for the failure to complete and submit the returns concerned.

Sovereign Immunity

Uganda Co (Holdings) Ltd v Government of Uganda
Queen's Bench Division, December 11, 1978

In *Uganda Co (Holdings) Ltd v Government of Uganda* the plaintiffs, an English company, guaranteed the obligations of a Ugandan company. Another Ugandan company, which was a subsidiary of the borrowing company, was a co-guarantor. As a result of a number of decrees authorising compulsory purchase the defendant Government of Uganda succeeded to the liabilities of both companies. The plaintiffs paid £240,185 under the guarantee and claimed half this sum from the defendants as co-guarantors. Leave was given to the plaintiffs to issue a writ out of the jurisdiction and to serve notice of it on the defendants in Uganda. The defendants issued a summons seeking an order setting aside the writ and all subsequent proceedings on the ground that they were a foreign sovereign State and did not consent to the jurisdiction of the English court.

It was held (Donaldson J) that the application would be granted. A judge at first instance should be very slow to conclude that two decisions of the Court of Appeal were inconsistent with each other, for it was not for him to hold that the Court of Appeal had erred, and a conclusion that two of its decisions were wholly inconsistent involved such a conclusion. But if it was clear that the two decisions were indeed inconsistent, it could not be in anyone's interest that he should be required to deny that fact. He should recognise it and should seek to anticipate how the Court of Appeal should resolve the conflict on any appeal from his decision. In the present case *Thai-Europe Tapioca Service Ltd v Government of Pakistan* [1975] 3 All ER 961 and *Trendtex Trading Corporation v Central Bank of Nigeria* [1976] 3 All ER 437, which were both decisions of the Court of Appeal, were inconsistent. In the first case it had been held that a foreign sovereign could not be personally impleaded in the English courts, but the reasoning of the majority of the members of the Court of Appeal was wholly different from that of the minority. In the second case the majority held that the rule of absolute sovereign immunity was no longer a rule of international law and had been replaced by a new rule of restrictive immunity which gave immunity to acts of a governmental nature but no immunity to acts of a personal nature. In the present case the Court would apply *Thai-Europe Tapioca Service Ltd v Government of Pakistan* (supra) for a decision which asserted the doctrine of precedent must logically have more weight *as a precedent* than one which denied or modified that doctrine. Further, great weight should be attached to the forecast of the Judicial Committee of the Privy Council in *Philippine Admiral (Owners) v Wallem Shipping (Hong Kong) Ltd* [1976] 1 All ER 78 that the House of Lords would be unwilling to abandon the absolute rule of sovereign immunity in actions *in personam* whatever might be the position in actions *in rem*.

Employment: Unfair Dismissal

Monie v Coral Racing Ltd
Employment Appeal Tribunal, December 7, 1978

M was employed by C Ltd as an area manager and had control over a number of betting shops. Under him was H, an assistant manager. They alone knew the combination numbers which would open a safe in the area headquarters office. H discovered that £1,750 was missing from it. There were no signs of forcible entry of the premises and the safe had not been forced. A security officer investigated the loss and concluded that it was committed by either M or H. Subsequently a director of C Ltd wrote to M stating that he was of the opinion that the missing amount was withdrawn either by M or H and that since there was no indication which of them had done so, he had no alternative but to dismiss them both. M appealed, and another director upheld the decision, and stated that there was no evidence of dishonesty against M, but that there had been a failure to exercise the authorised cash control procedures and that M had failed to act responsibly. M claimed damages for unfair dismissal. An industrial tribunal decided that they must concentrate on the reason given for the dismissal at the time of dismissal, and ignore all the other reasons given when the director heard M's

appeal. Subsequently, however, the tribunal went back on their words and proceeded to find that the other reasons put forward justified the dismissal but that in any event the dismissal was fair for the reason given. M appealed.

It was held (EAT: Kilner Brown J, Miss J Collerson and Mr S C Marley: December 7, 1978) that the appeal would be dismissed. Where, as in the present case, an appeal by a dismissed employee amounted to a re-hearing and a re-assessment of the situation, an employer ought to be able to say that the dismissal was confirmed but for other and different reasons from those given at the time. Paras 5 and 6 of Sched 1 to the Trade Union and Labour Relations Act 1974 (now re-enacted in the Employment Protection (Consolidation) Act 1978, ss 55 and 57) clearly contemplated that there ought to be a variety of reasons for dismissal, and that at the end of the process it was for an industrial tribunal to say whether there was, in fact, a sufficient reason for the employer acting reasonably to dismiss the employee and whether he had done so fairly. In the present case to dismiss both M and H because the director could not say which was guilty was unfair, and the tribunal's decision could be upheld on the second ground, *viz* that the other reasons put forward justified M's dismissal. (*W Devis & Sons Ltd v Atkins* [1977] 3 All ER 40 and *British Home Stores Ltd v Birchell* [1978] IRLR 379 considered.)

Criminal Law: Security Area

Ten Cheng Poh v The Public Prosecutor, Malaysia

Privy Council, December 11, 1978

In *Ten Cheng Poh v The Public Prosecutor, Malaysia* P was found, on January 13, 1976, at Georgetown, Penang in possession of a revolver and ammunition in the course of a search by a police patrol. He was charged with two offences under the (Malaysian) Internal Security Act 1960 *viz* (i) having in his possession in a security area without lawful excuse a firearm without lawful authority for it; and (ii) a similar offence in respect of the ammunition. The mandatory penalty for those offences was death. Penang had been declared to be a security area for the purposes of Part II of the Internal Security Act 1960 by a Proclamation of HM the Yang di-Pertuan Agong made on May 15, 1969 ("the Security Area Proclamation"). If that Proclamation were still effective on January 13, 1976, the offences with which P was charged would constitute security offences within the meaning of the Essential (Security Cases) (Amendment) Regulations 1975 ("the Security Cases Regulations"), which purported to be made by the Yang di-Pertuan Agong under the Emergency (Essential Powers) Ordinance 1969 ("the No 1 Ordinance"). The No 1 Ordinance was made on May 15, 1969 by the Yang di-Pertuan Agong in reliance on the powers conferred on him by Art 150(2) of the Federal Constitution. These powers had become exercisable by virtue of a Proclamation of Emergency issued by him on the same date under Art 150(1). The Security Cases Regulations provided for trial by a judge sitting alone. P was tried under this procedure and was sentenced to death. He now appealed on the ground that (i) the Security Cases Regulations were void under the Constitution; (ii) the Security Area Proclamation was not in force on January 13, 1976; and (iii) under the Constitution the Attorney-General's decision to prosecute him for an offence under the Internal Security Act 1960, s 57(i) was unlawful. If P succeeded under head (i) in establishing that the Regulations were void, his trial by a judge sitting alone would be a nullity. But unless he also succeeded under head (i) or (ii), success under head (i) would not necessarily preclude his being prosecuted for the same capital offence under the Internal Security Act 1960, but this time before a judge and jury and in accordance with the procedure presented by the Criminal Procedure Code.

It was held (PC: Lord Diplock, Lord Simon of Glaisdale, Lord Salmon, Lord Edmund-Davies and Lord Keith of Kinkel: December 11, 1978) that the conviction and sentence passed on P would be set aside, and that the case would be remitted to the Federal Court for further consideration as to whether or not to order a new trial. The Security Cases Regulations were *ultra vires* the Constitution. The Security Area Proclamation had not lapsed, and s 57, which made possession of firearms or ammunition capital offences, was applicable to the possession of firearms in Penang. Once the Attorney-General had decided to charge P with unlawful possession of a firearm and ammunition, he had no option but to frame the charge under the Internal Security Act 1960.

Statutory Instruments

County Courts

County Court Fees Order 1978 SI 1978/1243: Replaces the County Court Fees Order 1975, as amended. It amalgamates a large number of fees and deletes a number of fees which are no longer considered relevant. As a result of amalgamation a number of fees are altered and increased. In addition the fee for the supply of a serial list by the Registry of County Court Judgments is increased. [October 2]

Court of Session, Scotland

Act of Sederunt (Rules of Court Amendment No 10) (Induciae) 1978 SI 1978/1804: Makes provision in relation to actions of declarator of death for extending the period within which defences may be lodged from 14 days to 28 days to allow further time for any necessary investigations to be made. The Act of Sederunt amends the provisions relating to service in actions where jurisdiction is founded on delict by restricting the requirement in relation to postal citation of posting within the country in which the defender or third party is resident to actions in which the defender or third party is resident in a county outside the United Kingdom. The Act of Sederunt also makes certain minor drafting amendments which make no alteration in the existing law. [December 28]

Legal Aid and Advice, England

Legal Advice and Assistance (Financial Conditions) (No 2) Regulations 1978 SI 1978/1568: Increase the disposable income limit for the availability of legal advice and assistance under the Legal Aid Act 1974 from £8 to £52 a week and increase the disposable capital limit from £340 to £365. [November 27]

Legal Aid (Financial Conditions) Regulations 1978 SI 1978/1571: Increase the financial limits of eligibility for legal aid laid down in the Legal Aid Act 1974.

The income limits are increased to make legal aid available to those with disposable incomes of not more than £2,600 a year (instead of £2,400) and available without payment of a contribution to those with disposable incomes of not more than £815 a year (instead of £760).

The capital limits are increased to make the upper limit of disposable capital, above which legal aid may be refused if it appears that the applicant could afford to proceed without

legal aid, £1,700 (instead of £1,600) and the lower limit of disposable capital, below which no contribution in respect of capital may be required, £365 (instead of £340). [November 27]

Legal Aid and Advice, Scotland

Act of Adjournal (Criminal Legal Aid Fees Amendment) 1978 SI 1978/1686: Amend the Act of Adjournal (Criminal Legal Aid Fees) 1964 by making provision for new fees to be payable under that Act, and revokes the Act of Adjournal (Criminal Legal Aid Fees Amendment No 2) 1976. [December 13]

Supreme Court of Judicature, England

Supreme Court (Non-Contentious Probate) Fees (Amendment) Order 1978 SI 1978/1298: Amends the Supreme Court (Non-Contentious Probate) Fees Order 1975, as amended by the Supreme Court (Non-Contentious Probate) Fees (Amendment) Order 1976 by substituting for the scale of charges in Fee No 1 an ad valorem fee of £2.50 per £1,000 of the value of the Estate where it does not exceed £100,000 while raising the figure at which no fee is payable from £1,000 to £2,000. Changes are also made in Fees Nos 5, 6, 12 and 16. [October 2] (*Reissued instrument*)

Supreme Court of Judicature, England

Wills (Deposit for Safe Custody) Regulations 1978 SI 1978/1724: Provide, pursuant to section 172 of the Supreme Court of Judicature (Consolidation) Act 1925, that the Principal Registry of the Family Division shall be the depository for the safe custody of testamentary documents of living persons under the control of the High Court, and regulate the procedure for the lodgment and withdrawal of such documents. [February 1, 1979]

Sheriff Court, Scotland

Act of Sederunt (Summary Cause Rules, Sheriff Court) (Amendment No 2) 1978 SI 1978/1805: Amends Rule 12 (Re-service) and Rule 55 (No Notice by Defender) in the Schedule to the Act of Sederunt (Summary Cause Rules Sheriff Court) 1976. It also provides new Forms A, Aa and Q for use in actions for payment of money, and a new Form V for a minute under Rule 55. There is a consequential new Rule 50A and consequential amendment of Rules 51 and 52. [January 15, 1979]

Court of Appeal (Civil Division) Transcripts

Real Property

Law Society's General Conditions of Sale

In *Talley and Talley v Wolsey-Neech* (1978) CAT 137 the defendants failed to complete the purchase of a property, the purchase price having been agreed at £55,000. The plaintiffs sought, inter alia, as damages under Condition 16 and Special Condition 2 (which fixed at 15 per cent the rate of interest applicable under Condition 16) interest of 15 per cent on £55,000 from the date fixed for completion until the actual date of completion of the plaintiffs' resale. Alternatively, the plaintiffs sought damages to compensate them for the loss arising from their inability to invest the purchase monies. The judge held that, despite Condition 19(4)(c), the plaintiffs were entitled to such damages as they could prove but that the language of Condition 16 was not applicable to impose the interest rate of 15 per cent under Special Condition 2 and, therefore, he would award a reasonable rate of interest of 11.2 per cent. The defendants appealed on the ground that the plaintiffs were not entitled to recover additional damages over and above the liquidated damages to which they were entitled under Condition 19(4)(c). The plaintiffs cross-appealed.

It was held (CA: Brown LJ: February 8, 1978) that the plaintiffs, having chosen to exercise their rights and remedies under Condition 19(4)(c), were only entitled to recover the liquidated damages provided for by that Condition. The Court added that while that decision concluded the appeal and cross-appeal, nevertheless, it wished to express entire agreement with the construction placed upon Condition 16 by the judge at first instance. The appeal would be allowed and the cross-appeal dismissed.

Talley and Talley v Wolsey-Neech

Defamation

Damages

In *P v S* (1978) CAT 50 the defendant grossly defamed the plaintiff, a married woman. As a result, the plaintiff, inter alia, was approached with a view to obtaining sexual intercourse for reward, by no less than 300 men, between 1973 and 1975. The plaintiff was caused deep distress and depression. The plaintiff appealed against an assessment of damages of £1,250.

It was held (CA: Roskill LJ: February 8, 1978) that the appeal would be allowed. The Court was referred to an award of £2,250 in a personal injury case of 1977 for nervous shock but rejected the view that help could be derived from personal injury cases when assessing damages in defamation cases. Judgment was given for £4,000.

P v S

Practice

Amendment of Pleadings

In *Foster & Braithwaite v Jones* (1978) CAT 163 the plaintiffs, while pleading that they had restricted the business activities of the defendant employee, did not directly aver that the exercise of that power was founded upon an allegation of misconduct on the part of the defendant. On the second day of trial they sought to so aver. The judge permitted the plaintiffs to amend their pleadings and, on the question of costs of the amendment held that they should be reserved rather than automatically awarded to the defendant. One of the reasons given for arriving at this decision was that, as a matter of comity, the defendant's counsel should have raised his objection as to the deficiency of the plaintiffs' pleadings with their counsel before trial. The defendant appealed.

It was held (CA: Shaw LJ: March 22, 1978) that it was no part of a defendant's duty to elucidate a case which did not appear to have been asserted against him in the pleadings. As the plaintiffs were still not in a position to give particulars of the amendment sought, the judge's order giving leave to amend was set aside by the Court.

Foster & Braithwaite v Jones

Practice

County Court Costs

In *Varley v Tarmac Ltd* (1978) CAT 54, the plaintiff's car was damaged as a result of the defendants' road works and she claimed damages, including damages for personal injuries (nervous shock). The defendants denied the existence of personal injuries and on January 10, 1977 paid £80 into court in respect of the remaining heads of claim. At the hearing on February 1, 1977 the plaintiff made an unopposed application for leave to take the £80 out of court, and, on appeal, the judge awarded costs, incurred prior to January 11, 1977, to

the plaintiff. The defendants appealed against that costs award.

It was held (CA: Megaw LJ: January 18, 1978) that the appeal would be dismissed. Order 47, r 5(4)(c) provided that "Where the sum of money does not exceed £100 no solicitors' charges shall be allowed as between party and party unless . . . a claim is made in the proceedings for personal injuries exceeding £5". Such a claim had been made but the defendants argued that the claim had either to be admitted to be, or adjudged to be, valid. The Court rejected that argument since, otherwise, the claim would have to be adjudicated upon merely to determine a minor question of costs. The Court, while not expressing any final view upon the decision of Judge Head in *J Lyons & Co v Gullick* (October 1, 1976, Lowestoft County Court, January 1977 Current Law), that O 47, r 5(4) applied only to costs recovered by plaintiffs, doubted the correctness of that decision.

Varley v Tarmac Ltd

Bills of Exchange

Promissory Note

In *Myerson v Martin, Labesse et al* (1978) CAT 126 the plaintiff, seeking office premises in Jersey, was advised by his Jersey lawyer, a Mr Labesse, to buy a company (London and County (Jersey) Ltd) which owned suitable premises, the purchase price to be paid by a promissory note in favour of a company owned by Mr Labesse, Piermont Properties Limited. The promissory note was subsequently transferred to a company called Ackary Ltd, which company was a nominee for Mr Labesse although possibly unaware of the exact purpose of the transfer. The plaintiff brought proceedings for conspiracy, fraud etc, but Ackary Ltd, one of the defendants, successfully counterclaimed for judgment on the promissory note. The plaintiff appealed.

It was held (CA: Shaw LJ, March 14, 1978) that the Court would accept two arguments not available at the first instance. First, that since the note was not endorsed by Piermont, Ackary were assignees, not holders, and therefore subject to equities. Secondly, that there was a collateral agreement that the note was not to be enforced unless the intention that the plaintiff be able to use the premises owned by London and County (Jersey) Limited had been satisfied. The Court held that the defence of the collateral agreement was not a sham and, therefore, the judgment on counterclaim should be set aside with leave to defend conditional on the fund of £8,000 (which had arisen from execution on the judgment) being preserved to satisfy any eventual judgment on the note.

Myerson v Martin, Labesse et al

Practice

Split trial and discovery

In *Gamlen Chemical Company (UK) Ltd v Rochem Ltd et al* (1978) CAT 139 the plaintiffs sought damages on the grounds that the defendants both as their employees, and as the companies formed by their employees, had conspired during the time of the individual employees' employment with the plaintiffs to steal the plaintiffs' customers and personnel, and had misused confidential information. Passing off, slander and wrongful conduct were also alleged against the defendants. The plaintiffs secured an Order for further discovery limited to a period terminating on the date of the plaintiffs' affidavit in support of further discovery. An Order that there be no separate trials of the issues of liability and damages was refused. The defendants appealed against both decisions.

It was held (CA: Goff LJ: March 15, 1978) that the appeal would be allowed. The Court referred to the Judge's view that there would inevitably be an overlap between the split trials, of the evidence required to establish respectively liability and damages and that at the second trial it would be necessary to go over again the extensive allegations raised in the case. The Court held that a decision as to split trials was a matter of discretion, having regard to the circumstances of each individual case. Without split trials the length of trial would be increased, together with costs, with the parties having, perhaps unnecessarily, their witnesses on damages present. Moreover, depending on the findings on liability, the ambit of the inquiry into damages might be reduced. It would be most inconvenient to have a single trial at which damages also had to be dealt with. The Court accepted the plaintiffs' argument that they were entitled to discovery not only in relation to unlawful actions, but also, subject to avoiding oppression, to the general conduct of the defendants with regard to the subject matter of the action since such general conduct could be evidence of the conspiracy alleged and that was an issue to be decided at trial. The appeal would be allowed in favour of separate trials and for further discovery in the terms of the Court's judgment.

Gamlen Chemical Company (UK) Ltd v Rochem Ltd

A Digest of Reported Cases

Sale of Goods

Waiver of Breach

In *Bremer Handelsgesellschaft mbH v Mackprang* the sellers sold to the buyers 1,200 tonnes of USA solvent extracted soya bean meal under a contract in Form 100 of the Grain and Feed Trade Association (GAFTA). A shipment of 1,200 tonnes was never made. The sellers claimed to be exempted from liability under cll 21 and 22 of the contract because of an embargo imposed by the US Government. The sellers contended also that the breach had been waived by the buyers.

It was held (CA: Lord Denning MR and Shaw LJJ; Stephenson LJ dissenting: November 16, 1978) that the sellers had not discharged the burden of proving that they were prevented by the embargo from fulfilling the contract. But the buyers ought to have taken up the shipping documents on shipment. If a buyer who was entitled to reject goods or documents because of a defect in notices or their timing so conducted himself as to lead the seller reasonably to believe that he was not going to rely on any such defect, he could not afterwards set up the defect as a ground for rejecting the goods or documents when it would be unfair or unjust to allow him to do so. (*Bremer v Vanden Avenne-Izegem PVBA* [1978] 2 Lloyd's Rep 109, considered).

Bremer Handelsgesellschaft mbH v Mackprang
The Times, November 17, 1978

Family Provision

Common Law Wife

In *CA v CC* the deceased died in 1978, aged 42. The net value of his estate was between £25,000 and £35,000. By a will made in 1971 he left all his property to his legitimate son contingent upon his attaining the age of 25. In 1971 the deceased was granted a divorce, and was awarded custody of the son. In 1972 the applicant, then aged 18, came to work for him as a housekeeper, on condition that she became his common law wife. A son was born to them in 1974. After the deceased's death the legitimate son went to live with his mother, who had remarried. The applicant and her son applied for provision out of the deceased's estate under the Inheritance (Provision for Family and Dependants) Act 1975 (which stated in s 1 "(1) Where . . . a

person dies and is survived by any of the following persons:— . . . (c) a child of the deceased; . . . (e) any person (not being a person included in the foregoing paragraphs of this subsection) who immediately before the death of the deceased was being maintained, either wholly or partly, by the deceased; that person may apply to the Court for an order under s 2 of this Act on the ground that the disposition of the deceased's estate effected by his will or the law relating to intestacy, or the combination of his will and that law, is not such as to make reasonable provision for the applicant. . . . (3) For the purposes of subsect (1)(e) above, a person shall be treated as being maintained by the deceased, either wholly or partly, as the case may be, if the deceased, otherwise than for full valuable consideration, was making a substantial contribution in money or money's worth towards the reasonable needs of that person.")

It was held (FamD: Sir George Baker P: November 17, 1978) that a lump sum of £5,000 would be awarded to the applicant, and that the remainder of the estate would be divided equally between the two sons. The applicant was a de facto wife, and came within the terms of s 1. The words "reasonable financial provision" in s 2 meant such financial provision as it would be reasonable to make in all the circumstances. Regard had to be given to the size of the estate, the age of the parties, the years they had spent together and the applicant's needs in the foreseeable future.

CA v CC
The Times, November 18, 1978

Landlord and Tenant

Right of Mortgagee

In *Quennell v Maltby* Mr Q let a house to M in December 1973 for one year. On August 13, 1974, he charged the house to a bank as security for an overdraft. By cl 4 the mortgagor's power to grant tenancies without the bank's consent was excluded. The tenancy granted to M expired in December 1974 but continued with rent being paid. Subsequently a fresh tenancy was granted without the bank's consent to M from December 1, 1975 to December 1, 1976. Mrs Q paid off the bank and on January 17, 1978 the charge was transferred to her. She now claimed possession of the house.

It was held (CA: Lord Denning MR, Bridge and Templeman LJJ: November 15, 1978) that the application would be refused. The Court was entitled to look behind the formal legal relation between the parties to see the true substance of the matter. When one did that, it was plain that the purpose of the proceedings by Mrs Q was not for her own benefit to protect or enforce the security which she held as transferee of the legal charge but for the benefit of her husband to enable him to sell the property with vacant possession.

Quennell v Maltby
The Times, November 17, 1978

Capital Allowances Act 1968

"War Risk"

In *Costain-Blankevoort (UK) Dredging Co Ltd v Davenport (Inspector of Taxes)* a dredger which was owned by C Ltd, was engaged in a dredging operation off the coast of Mauritius when it sucked up a number of 20 mm Oerlikon shells which had been dumped in the sea by the British armed forces at the end of World War II. An explosion in the dredger's discharge pump occurred and she sank. C Ltd collected the insurance money in respect of her. The special commissioners held that a balancing charge of £607,433 under the Capital Allowances Act 1968 in respect of the disposal proceeds arising from the dredger would be imposed in an assessment to corporation tax. C Ltd appealed on the ground that they were entitled to rely on the exemption given by s 33(7) of the Act (which stated: "Where the loss of a ship is due to a war risk connected with any war in which His Majesty was engaged on June 15, 1945, then, notwithstanding that the loss occurs after the conclusion of, or hostilities in, that war, no balancing charge shall be made by reason of the loss in respect of expenditure on the ship"). That subsection said that "war risk" meant any risk falling within the definition of "war risks" contained in the form of policy set out in the First Schedule to an agreement for reinsurance of British ships made by the Minister of War Transport on September 16, 1943. . . . That form stated that " 'War risk' means the risks of war which would be excluded from an ordinary English policy of marine insurance by the following, or similar, but not more extensive clause:—'Warranted free of . . . the consequences of hostilities or warlike operations . . . but this warranty shall not exclude . . . contact with any fixed or floating object (other than a mine or torpedo) . . .'"

It was held (ChD: Walton J: November 15, 1978) that the appeal would be dismissed. The dumping of the ammunition was not a "warlike operation" and was not within the exemption from the charge. Further, the ammunition was a "fixed or floating object" and expressly excluded from the definition. The categories of "fixed" and "floating" were intended to be exhaustive of the various things which a ship might come into contact with at sea. Things on the bed which were not attached thereto might indeed from time to time change their location but that did not take them out of the class of "fixed objects" for present purposes. It had to be remembered that many things frequently "floated" underneath the sea, and it would be an extraordinary definition which dealt with a shell under the water in one way if that shell happened to be moving along the sea-bed and in another way if the forces of nature had pushed it up off the sea-bed so that at the moment of contact it was "floating". (*Liverpool and London War Risks Insurance Association Ltd v Ocean Steamship Co Ltd* (1947) 2 All ER 586, considered.)

Costain-Blankevoort (UK) Dredging Co Ltd v Davenport (Inspector of Taxes)
The Times, November 16, 1978

Sale of Goods

Right to Trace

In *Borden (UK) v Scottish Timber Products Ltd* B Ltd supplied S Ltd, who were manufacturers of chipboard with resin, under a contract, cl 2 of which stated: "*Risk and Property*. Goods supplied by the Company shall be at the purchaser's risk immediately on delivery to the purchaser or into custody on the purchaser's behalf (whichever is the sooner) and the purchaser should therefore be insured accordingly. Property in goods supplied hereunder will pass to the customer when (a) the goods, the subject of this contract, and (b) all other goods, the subject of any other contract between the Company and the customer, which, at the time of payment of the full price of the goods sold under this contract, have been delivered to the customer but not paid for in full, have been paid for in full." The resin accounted for about 17 per cent of S Ltd's price for the chipboard. Deliveries of the resin were made in quantities sufficient for two days' production. It was essential in those circumstances to imply into the contract of sale a licence to use the resin in the usual course of manufacture before it was paid for. B Ltd sought declarations that (i) chipboard manufactured by S Ltd was the property of B Ltd to the extent that it consisted of the resin; or (ii) it was charged to the same extent with payment due for resin supplied; and (iii) that moneys and other property representing the chipboard were similarly charged. S Ltd contended that the use of the resin in the process of manufacture put an end to the right to trace.

It was held (ChD: Judge Rubin: November 15) that B Ltd had no title at common law to the resin for the mixing of the

resin was done in the course of manufacture with their consent. The effect of cl 2 was that S Ltd was a bailee for B Ltd and therefore a fiduciary relationship was created. The tracing principle applied unless there was to be implied into the contract a power in S Ltd to sell the manufactured goods on his own account. No such term could be implied in the present case. B Ltd were entitled to trace their resin into chipboard manufactured from such resin or into the proceeds of the sale of the chipboard. The right to trace was not a charge within the scope of the Companies Act 1948, s 95. Even if it were, it was not created by S Ltd, and so was not void against S Ltd's creditors for lack of registration. (*Re Hallett's Estate* (1880) 13 ChD 696 and *Aluminium Industrie Varassen BV v Romalpa Aluminium Ltd* [1976] 2 All ER 552, applied).

Borden (UK) Ltd
v Scottish Timber Products Ltd
The Times, November 16, 1978

Moneylending

Temporary Loans

In *Offen v Smith* O, a retired estate agent had money in hand from his share of the sale of the business and was looking for a long-term investment on a substantial property but wanted to make temporary use of the money. He knew C, a solicitor, who could get into touch with the owners of suitable property on which money might be lent. In 1969 he lent £6,000 to an Army officer, and this was repaid. Other sums including £10,000 to a property company were lent in 1970. In 1972 he lent £4,000 and £5,000 to S, who was concerned in acquiring houses in a dilapidated condition, doing them up and reselling them at a profit, through the medium of C. C did not repay the money and contended that the loans were unenforceable because O was an unregistered moneylender and was carrying on the business of moneylending within the meaning of the Moneylenders Act 1900, s 6 which defined a "moneylender" as including a person holding himself out in any way as carrying on the business of moneylending.

It was held (CA: Lord Denning MR, Bridge and Templeman LJJ: November 4, 1978) that O was entitled to repayment of the loans. On the evidence he was not a moneylender.

Offen v Smith
The Times, November 15, 1978

Supplementary Benefit

Entitlement

In *Supplementary Benefits Commission v Riley* R, a student, obtained employment during the summer vacation of 1977. He started work on July 26 and continued until September 10. He received a full week's supplementary benefit for the week beginning July 28 because his first wages from his work would not be paid until August 4. Under the Supplementary Benefits Act 1976 a person was entitled to supplementary benefit if his "resources" were insufficient to meet his requirements. O's requirements were calculated as being £11.35 per week. After his employment had ceased he made another claim for supplementary benefit, which was refused by the Supplementary Benefit Commission on the ground that having regard to his "resources" he was not entitled. He appealed and the Supplementary Benefits Appeal Tribunal decided that he was entitled to a supplementary benefit for the two benefit weeks immediately following his claim, and that the benefit should have been calculated on the basis that no part of the £86.80 (ie £66 being a week's wages in hand and £20.80 being two days' holiday pay) previously received from his former employer should be regarded as income "resources" for the benefit weeks. The Commission appealed on the ground that the £86.80 was "earnings which, although the product of earlier work fell to be treated as resources" for a period after the employment had ceased equivalent to at least the period during which it had been earned.

It was held (QBD: Sheen J: November 9, 1978) that the appeal would be allowed, for no supplementary benefit was payable because R had "resources" in excess of his requirements. A supplementary benefit might be paid to a man who had full-time employment because during that time he had no "resources", even though he had been earning income throughout that period. When that employment ceased, he would, in fact, have "resources" to cover him over the next week or two weeks, as the case might be. (*R v Preston Supplementary Benefits Appeal Tribunal, ex parte Moore* [1975] 2 All ER 807, applied.)

Supplementary Benefits Commission v Riley
The Times, November 15, 1978

Family Provision

Adult Son

In *Re Coventry, deceased* C died intestate and his widow was the person entitled under the provisions of the Administration of Estates Act 1925 to the whole of his estate, which consisted substantially of C's interest in a house in which he was living with his son, who was of full age. The house was worth about £12,000. The widow lived on old age pension and supplementary benefit. The son was capable of gainful employment. He was not dependent on the deceased except to the extent that he enjoyed common occupation of the home apparently in return for providing the deceased's food and contributing to outgoings. The son's present earnings amounted to £70 per week and a disposable income of £40 per week. He had to pay maintenance of £12 a week for his three children whom his wife had taken when she left him. He now applied for reasonable financial provision to be made for him out of the deceased's estate under the Inheritance (Provision for Family and Dependants) Act 1975.

It was held (ChD: Oliver J: November 9, 1978) that the application would be refused. For the Court to interfere there must be some sort of moral claim for the applicant to be maintained by the intestate beyond the mere fact of blood relationship. The mere fact that the applicant found himself in necessitous circumstances could not, by itself, render it unreasonable that no provision should be made for him. In the present case there were no circumstances which could be said to have put the deceased under an obligation during his life to have maintained or contributed to the applicant's maintenance. (*Re Ducksbury (deceased)* [1966] 2 All ER 374, considered.)

Re Coventry, deceased
The Times, November 14, 1978

Employment

"Employee"

In *Parsons v Albert J Parsons Ltd* P Ltd had four directors including P and his two brothers. All three brothers received equal remuneration. P was not entitled to an annual salary. He was voted a sum of money at the end of the financial year when the profits were calculated. In the accounts the directors' fees were shown as "nil" and "other emoluments" were shown as embracing the whole remuneration paid to them. P was dismissed and complained of unfair dismissal. An industrial tribunal held that it had no jurisdiction to entertain the complaint because there was no contract of employment and none could be implied, and P was not an employee within the meaning of the Trade Union and Labour Relations Act 1974, s 30(1) (which defined "employee" as "an individual who has entered into or works under . . . a contract of employment".) P appealed.

It was held (CA: Lord Denning MR, Stephenson and Shaw LJJ: November 10, 1978) that the appeal would be dismissed. It was not possible to say that the tribunal had erred in law in finding that no contract of employment existed.

Parsons v Albert J Parsons Ltd
The Times, November 14, 1978

Money

The Floating Pound

Alan Greenwood

"For long years sterling was . . . a stable currency of whose time-fixed and resting quality there is no fellow in the firmament." Per Lord Denning in the *Havana Railway* case (1960).

Over eleven years ago, on November 18, 1967, the British Government devalued the pound sterling by 14.29 per cent. The official IMF parity of the pound was thereby changed from US$2.80 to $2.40 — a dramatic fall from the pre-war parity of $4.80. The devaluation of the £ triggered a series of devaluations by other countries closely linked to the UK. More significantly the devaluation of sterling was the beginning of a decade of turmoil in the international monetary system during which the regime of fixed exchange rates established in 1944 at Bretton Woods was demolished; gold was dethroned from its pivotal role in this system by being demonetised and a new reserve unit for the world (the SDR) was created. During the decade the pound continued to plummet reaching an all-time low of $1.55 in September 1976. Now, under the benign influence of the first gushes of North Sea oil, the pound has partially recovered. In the meantime, one of the many side effects of these developments has been a change in the recognition given to foreign currencies by the English courts as shown in *Miliangos v George Frank (Textiles) Ltd* [1975] 3 All ER 871. It is proposed to summarise these changes here.

The three major developments that have occurred since the devaluation of the pound in the international monetary system are the demise of gold and the transfer from fixed to floating exchange rates. A related development has been the creation of the SDR (Special Drawing Right) which is the accounting unit for official world reserves. The third has been the decision of the UK not to join the European Monetary System at least for the time being.

Decline in Role of Gold

In 1967 gold was still the core of the world monetary system. No one described this role better than General de Gaulle in one of his memorable press conferences (in 1965):

> ". . . it is difficult to envisage any other standard than gold. Yes, gold, which does not change in nature, which can be made into bars, ingots or coins, which has no nationality, which is considered, in all places and at all times the immutable and fiduciary value par excellence . . . even today no currency has any value except by direct or indirect relation to gold, real or supposed".

The legal consecration of gold was contained in Article IV of the Articles of Agreement of the IMF which required each member country to establish a par value for its currency in terms of gold or in terms of a US$ of a specified gold content. The demise of gold occurred in two stages. First, following the "gold rush" in March 1968 the members of London gold pact ceased their intervention on the London gold market. In other words they abandoned their commitment to buy and sell gold at the fixed price of $35 per ounce. The second stage in the demonetisation of gold was the abrupt decision of the USA on August 16, 1971 to suspend the convertibility of the $ into gold. That meant an abandonment of the commitment by the US government to redeem gold at a fixed price of $35 per ounce. President Nixon justified this action as being "a necessary defensive measure against speculators who are waging an all-out war on the American dollar". This measure provoked a fundamental crisis in the world monetary order which was partially resolved by the Smithsonian Agreement of December 18, 1971. With characteristic hyperbole, President Nixon described that agreement as "the most significant monetary agreement in the history of the world". In fact, as regards gold, the Smithsonian agreement initiated lengthy negotiations in numerous international bodies which were not concluded until 1976.

In April 1976 the IMF adopted the following new rules in relation to gold:

a) the elimination of gold as common denominator of the par value system.
b) abolition of the official price of gold.
c) abolition of obligatory payment in gold by member countries as part of their subscription.

Essentially, gold is now treated as a commodity and is no longer a central pivot of the international monetary system.

Legal Implications

The legal consequences of this change may not yet have been fully worked out. For instance there are numerous international conventions where a maximum liability has been defined in terms of gold. Some have been translated into municipal law, for example by the Merchant Shipping (Liability of Shipowners) Act 1958. Then there are numerous private and inter-state obligations in which a liability has been set by reference to a gold standard. In both cases, the use of gold was intended to have a protective and stabilising function. But since 1968 the price of gold has fluctuated between $30 and $160 per ounce which makes the stabilising function distinctly questionable today. For instance in 1952 the French government issued a "recovery bond" (the *rente pinay*) in which the price of the bond was pegged to the price of gold. Reportedly "the gold price has risen so much in the intervening period that the government is losing a good deal more than it raised. As a result only one French gold-pegged bond has been sold".

Floating Exchange Rates

In 1967 the principle of fixed exchange rates was firmly enshrined in Article IV of the IMF rules. Under this there was a fixed par value for each currency which could only be changed in the case of a "fundamental disequilibrium" — after consulting with the IMF. In the early 1970s a number of countries effectively defaulted on the obligations in this Article by allowing their currency to float freely and no longer intervened via their Central Bank to maintain their currency within the fixed parity. Early "floaters" were Canada and the UK (in July 1972). As floating became generalised, it became clear that this situation would have to be legitimised. This was achieved by a fundamental modification of Article IV which was approved in April 1976 and is presently undergoing ratification by the member coun-

tries. Under the vague heading "General Exchange Arrangements" each country is to notify the Fund "of the exchange arrangements it intends to apply". Such arrangements may include any of the following:

1) a value for a currency in terms of the SDR or another denominator other than gold.
2) a co-operative arrangement (eg the EMS).
3) "other exchange arrangements of a member's choice".

The pound sterling falls in the third category because it is freely floating — along with the US$ and Japanese yen.

Some commentators have bemoaned the passing of the old regime. Thus: "The international community of States now floats, adrift except for the compulsions which its trading relations impose, and fickle international confidence is the norm of currency values. One wonders if this is an adequate basis upon which the wealth and happiness of mankind should depend" (Lazar (1977) ICLQ 691). Certainly the lawyer, who observes the new international monetary regime may be somewhat bewildered and regard it as a system of "licensed chaos". However, since money performs the dual functions of a measure of value, and a medium of payment, it may be necessary for him to identify the basis in which these values are attributed.[1] Ironically, the shifting character of floating exchange rates led in the USA to the introduction of a Bill authorising the writing of private contracts in which payments are linked to the price of gold. The author of the Bill was reported as saying, "the use of gold clause contracts will be a clear warning that people are tired of irresponsible government monetary and fiscal policies. If gold clauses begin to be widely used it will be time for the government to restore integrity to the dollar".

Changes in English Law

The changes in the International Monetary System between 1967 and 1977 which have just been summarised form the background against which one can best understand the changes which have since occurred in the English courts in regard to contractual claims in a foreign currency.

As long as the major currencies such as the £, US$ and DM were fixed in their relationship to each other, the fact that a contractual obligation was denominated in the foreign currency was of relatively little concern. If, for example, an English buyer defaulted on payment for a purchase from say a French seller, the French seller had the option of obtaining judgment in France and ultimately enforcing judgment in England under s 2(3) of the Foreign Judgments (Reciprocal Enforcement) Act 1933. It did not matter that the ultimate collection order was denominated in pounds as long as the relationship between the £ and French franc was fixed. It was quite clear that if the French seller wished to pursue his claim in England, the claim would have to be converted into pounds. In the *Havana Railway Case* [1960] 2 All ER 332 (HL) Lord Denning said:

> " . . . if there is one thing that is clear in our law it is that the claim must be in sterling and the judgment be given in sterling".

More explicitly, and as late as 1973, Rule 174 in *Dicey and Morris* stated that:

> "An English court cannot give judgment for the payment of an amount in foreign currency . . . a claim for debt or damages should be converted at the rate of exchange in effect at the time of the breach".

The crux here was the "breach date" rule. This rule, which was confirmed in the *Havana Railway* case in 1960, can be summarised as requiring that, in the case of breach of a contractual obligation denominated in a foreign currency, the currency should be converted into sterling at the rate of exchange valid at the time of the breach. Any alteration in the exchange rate between the time of breach and the actual recovery of the money would be disregarded. As soon as the rate depreciated in relation to other currencies, the rule immediately created inequities.

In the *Teh Hu* [1969] 3 All ER 8 a salvage was carried out in the Pacific in January 1967. The London arbitration for the salvagor's compensation was not held until May 1968, during which time, the £ had been devalued. The salvagor sought to enforce the award via the English courts who applied the conversion rate at the time of the salvage. Consequently, instead of receiving US$126,000 the salvagor received only US$108,000. This was the application in extremis of the breach date rule, since the devaluation of the pound was totally irrelevant as far as the salvage was concerned.

The inequities produced by applying this rule were felt particularly strongly by the London commercial arbitration community. It was from this source that the first breach in the rule was made. The first step was in 1973 in the decision of the Court of Appeal in *Jugoslavenska Oceanska Plovidta v Castle Investment Inc* [1973] 3 All ER 498 where two decisions were made; first that in a proper case English arbitrators had jurisdiction to make an award in a foreign currency and second that such an award could be enforced under s 26 of the Arbitration Act 1950. This had the effect of making the rules for arbitration award out of step with rules for judgments.

Schorsch Meier Case

The next developments followed very quickly. In *Schorsch Meier Gmbh v Hennin* [1975] 1 All ER 152 a German motor manufacturer had sold and delivered car components to an English motor dealer for a price of DM3,575. When the English buyer failed to pay the German company sued in the West London County Court and asked for judgment in DM. The reason for this was that between the "due date" and the trial date, the value of the £ against the DM had fallen by nearly one third, meaning that judgment in pounds would then produce the equivalent of only DM2,664. The county court refused to give judgment in marks on the ground that it was an established rule of English law that an English court could only give judgment for the payment of money in sterling. The Court of Appeal reversed this decision and gave the claimant an order for payment of money in marks. This decision was based on two grounds: first, that the rule of English law applied by the trial judge had been abrogated between nationals of Member States of the EEC by Art 106 of the Treaty of Rome which provides that "Each Member State undertakes to authorise in the currency of the Member State in which the creditor or beneficiary resides . . . any payment connected with the free movement of goods, services or capital". The Treaty became law in the UK by virtue of the European Communities Act 1972. Secondly, it was held that as a consequence of the rule having been abrogated by the statute in the European field, it should be regarded as abrogated also in all other fields. In retrospect, an equally important feature of the decision was that it showed that the procedural and practical obstacles which hitherto prevented an English court from giving judgment in a foreign

[1] *For an illustration of the difficulties caused by the new monetary system see* Lively Ltd v City of Munich [1976] 3 *All ER* 851.

currency no longer existed. Noting the change in the monetary environment and the decline in the £, which motivated the pursuit of the claim in DM, Lord Denning commented ruefully:

> "Things are different now. Sterling floats on the wind. It changes like a weather cock with every gust that blows. So do other currencies".

The "Halcyon the Great"

A further erosion of the rule requiring judgment to be in sterling occurred early in 1975 in *The Halcyon the Great* [1975] 1 All ER 882. Following the bankruptcy of Court Line, two creditor banks took steps to seize a tanker belonging to the company. On account of the precarious state of sterling at the time, the banks were anxious that the proceeds of the sale (which had to be placed on deposit) be kept in a currency other than sterling. They obtained an order from Brandon J that the ship be sold for US dollars.

Miliangos v George Frank Textiles

The facts in *Miliangos* [1975] 3 All ER 801 (HL) were similar to those in *Schorsch Meier* except that the plaintiff was Swiss. Therefore, EEC Treaty Article 106 could not be given direct application between the parties. There had been a contract of sale in May 1971, subject to Swiss law whereby Miliangos sold 90,718 kg of polyester yarn to George Frank Ltd (an English textile company) for a price of 415,000 Swiss francs. With the exchange rate of £1=SFr 9.90 at the time that payment was due, this was the equivalent of £42,000. The English buyer failed to pay, and managed to stave off judgment until the end of 1974 by which time the sterling equivalent of the original debt had risen to £60,000. The English buyer then argued, relying on the authority of the House of Lords decision in the *Havana Railway* case, that his liability was only to pay in pounds at the rate of exchange prevailing three years previously, when he should have honoured his obligation. Shortly before the case came to trial, the Court of Appeal judgment in *Schorsch Meier v Hennin* was delivered. The seller immediately altered his statement of claim so as to claim the amount due in Swiss francs. The trial judge was in a dilemma. On the one hand the House of Lords decision in *Havana Railways* precluded judgment in Swiss francs or an award of the sterling equivalent of the sum due converted at any time other than when the debt was due. On the other, there was the decision of the Court of Appeal in *Schorsch Meier*. The trial judge decided to follow the House of Lords and held that the decision in *Schorsch Meier* was given per incuriam. The Court of Appeal maintained their prior position in the *Schorsch Meier* case and awarded judgment in Swiss francs. After this extensive litigation, the stage was now set for the issue to be aired in the House of Lords.

The essential issue in the House of Lords was whether the court would be bound by its prior decision in the *Havana Railway* case. Applying the "breach date" rule would entitle the claimant to £42,000. Alternatively the court could use the facility contained in the 1966 practice direction to reverse its prior decision and apply the "judgment date" rule. In fact the court confined itself very closely to the immediate facts of the case by holding that an English court could in the circumstances of this case give judgment in a foreign currency and that no conversion into sterling was necessary until the time came for enforcing the judgment, when the rate current at the date of enforcement should be applied. To this extent the House of Lords reversed their earlier decision. The Court did *not* think it appropriate "to review the whole field of the law regarding foreign currency obligations". It was made clear that in other cases involving foreign currency obligations, the proper treatment of each case was to be worked out in such a way as was "best adapted to giving the injured plaintiff that amount which will most fairly compensate him".

With these guidelines, lower courts — and litigants — were left to work out the ramifications of this principle in cases involving places as far removed as Shanghai and Santos (Brazil) and currencies such as Chinese remimbini (RMB), Japanese yen, Brazilian cruzeiros, Italian lire and French francs . . .

Effect of Miliangos

The most appropriate comment regarding the "working out" of the House of Lords decision is that it has been an expensive process for litigants. There have already been at least seven reported cases, the most recent being *SEAS v Stockholm's Rederaktiebolag SVEA* [1978] 2 All ER 764, and one Practice Direction in which it has been in issue whether the court would or should issue damages in a foreign currency.

Shortly after the *Miliangos* decision, a Practice Direction ([1976] 1 All ER 669) was issued on this subject. Basing itself very closely on the *Miliangos* decision, it directed that the claimant must show that "the contract under which the debt claimed is governed by the law of some country outside the UK". This practice direction was criticised at the time, and in *Barclays Bank Ltd v Levin Bros* [1976] 3 All ER 900, Mocatta J held that it was not necessary to establish that the proper law of the contract was the law of a foreign country. In other words if an English law contract created an obligation in dollars then an English court could enforce it. In *Federal Commerce v Tradax Export SA* [1977] 2 All ER 41 the Court of Appeal went further, holding that the power to give judgment in a foreign currency should be exercised in every case where the currency of the contract was a foreign currency. This rule was applied in *Jean Kraut AG v Albany Fabrics* [1977] 2 All ER 116. In *Re Dynamics Corp of America* [1976] 2 All ER 669 Oliver J held that in the winding-up of an English company, some of whose creditors had claims in dollars the date on which those claims should be converted to pounds should be the date of the winding-up order. In *Services Europe Atlantique v Stockholms Rederiaktiebolag* [1978] 2 All ER 765 it was held that where damages flowing from a breach of contract occurred then damages would be awarded in that currency which most truly expressed the actual loss. Finally—and perhaps the most important case—is the decision of the Court of Appeal in the *Despina R* [1977] 3 All ER 874. Here it was held that in the case of damages a claim for tort the Court could also award damages in a foreign currency and "ought to do so where it would work better justice". This was the first case in which the "Miliangos" principle has been applied to a liability in tort.

Present Position

Analysis of the "post-Miliangos" cases suggests that the cautious opening given to foreign currency claims by the House of Lords has quickly developed to the situation where there is no longer any obstacle to a litigant in an English court in making and enforcing a claim expressed in a foreign currency. It is ironic that the decline in the future of the pound sterling — which undoubtedly contributed to this judicial reversal — should have ended just at the conclusion of the burial rites of the rule in the *Havana Railway* case and in the *Volturno*.

Letters to the Editor

Role of Lawyers

Dear Madam,

I read with interest Tom Harper's observations (The Week, December 14) on Mr John Boyd's attitudes to our profession. I think I understand what Mr Harper is saying but I feel that on our behalf it is perhaps a little unfortunately put on this occasion.

For example, he says that it is not clear whether Mr Boyd would prefer that "lawyers should be denied the opportunity of advising and assisting . . ." whereas I suppose what he means is that "citizens should be denied the opportunity of legal advice and assistance . . .". At the risk of splitting hairs, I feel the difference is very material because, hard done by though the profession may be, it is the citizen and not the lawyer who is supposed to be the beneficiary of the legislation under discussion.

I fear the same kind of confusion shows through in the next paragraph where Mr Harper interprets John Boyd's view as being that the giving of legal advice and assistance did not rank as a contribution "to the public's needs" whereas I fear that Mr Harper's gloss on what he quotes Mr Boyd as saying which is that lawyers "make very little contribution to society as far as the real wealth of the nation is concerned", ie not that they do not contribute to the nation's needs but they are unproductive in the ordinary sense of the word.

Although at first sight, reading these observations of his one might be tempted to ask whose side Mr Harper is on, I hope my remarks above will not be misunderstood because I feel sure I know where his heart is and that the article as a whole makes that clear; but I do feel that the unfortunate wording of the passages I have quoted rather blunts the point which is being made. One knows how deeply the media are infected with unsympathetic thinking about the profession. (For example the recent headlines reported in *The Times* which said "Solicitor seeks delay in Thorpe case" which was a quite unwarranted if fortuitous association of the words "solicitor" and "delay".) But one would hope this was a less common malaise among those who write for our own professional journals.

What I hope Mr Harper may be able to make very clear at a future opportunity (assuming it is a view which he shares) is that if there is any truth in Mr Boyd's statement that lawyers make very little contribution to the real wealth of the nation, it is because:—

1. They are in general so severely underrewarded (and the few who can make a penny so overtaxed) that they have no "opportunity" to "contribute" as employers or investors.
2. Like other self-employers and proprietors of small independent businesses they are overwhelmed with employment, fiscal and other "welfare" legislation which "taxes" their available productive time.
3. At the request of their similarly burdened clients they have to devote their energies to devising protection from the "Catch-22" aspects of the very legislation John Boyd complains they alone benefit from instead of doing otherwise productive work of which, but for such legislation, they could do plenty.

In other words, if lawyers are not very productive in the economic sense, this is the fault of Government, a point which he (bearing in mind his comment on James Prior's remarks) "may or may not" have made clear and I suppose the fact that I feel moved to write this letter is itself a symptom of the condition complained of.

Yours faithfully,

PHILIP H STUNT

Chelmsford

Law of Treasure

Dear Madam,

I wonder if I may take Anthony Morris's letter (December 14) a stage further. It seems to me that there is now a need for legislation to modernise the law of treasure, and this is for reasons other than those which moved Mr Morris to write to you.

Bodies (such as the parish, town and community councils who compose this Association) having care, control or ownership of public open spaces are more and more having to cope with the troubles caused by persons using metal detectors and digging into the soil whenever the detector registers a "find". The laws which at present might cover this field of activity prove on examination to be cumbersomely ineffective. We would hope that any reconsideration of the law of treasure would cover the associated topics of exploration in and disturbance of public land in the search for valuables.

The lack of respect for public land by the users of metal detectors was demonstrated to me recently when I had to advise a member council on how to protect its cemetery from their activities!

Yours faithfully,

J E CLARK

Secretary,

National Association of Local Councils, London WC1

Legal Charities Garden Party

Dear Madam,

I am sure that all those who attended the 1978 Garden Party organised by Holborn Law Society in aid of the legal charities would like to know that as a result of their support, when the sums were done a surplus of £3,800 was distributed amongst the four charities, a record figure.

Next year's Garden Party will be on June 13, 1979.

BRIAN WRIGLEY

London WC2

Statute Law Society

The Statute Law Society will treat 1979 as an "action year" to get things moving on the reform of our statute law system. Among the steps outlined by Mr Francis Bennion, the Society's chairman, are the establishment of an efficient system of monitoring Parliamentary Bills for clarity, and the setting up of a working party to recommend improvements in the method of bringing Acts of Parliament into force.

Next February the *Statute Law Review* will begin publication, and this will be the first journal devoted to statute law to be published anywhere in the Commonwealth. In March the Society is to publish a book, *Renton and the Problem of Reform*, dealing in depth with the task of achieving reforms.

In September the Society will participate in a conference with the Society of Public Teachers of Law. Arrangements are also in train for a conference of Commonwealth legislative draftsmen.

The Society is also holding discussions with a view to the setting up of the first Chair in the science of legislation to be established at any British university.

Further details from the Hon Secretary, 186 City Road, London EC1V 2NN.

Barristers' Chambers

Mr R S Nock is moving from 11 Stone Buildings to the chambers of Mr Peter Whiteman QC, Queen Elizabeth Building, Temple, London EC4. Clerk: Mr Paul Shrubsall. Telephone: 01-353 9076.

Investment

Prospects for 1979

John Myers

One good resolution already certain to go the way of wiser diets, fewer taxes and lower in-trays is to avoid prophecy—"the art of selling one's credibility for future delivery" —according to Ambrose Bierce. A sound New Year objective in principle, but difficult to fulfil when committing views to paper about the prospects for the next 12 months. The difficulty is to decide whether to try for an astonishment-free projection of trends, or to admit honestly that the most astonishing outcome would be to have no astonishments!

The safest starting point might be the report of the Royal Commission on Legal Services due later this year. It is possible that it will recommend changes in conveyancing procedures which, if implemented, might eventually make it less economic for solicitors in private practice to process the routines of house purchase. Let me hasten to add that this is not in itself a forecast for 1979, but it does seem likely that this possibility will continue to be a focus of discussion in the profession this year.

The point of interest is what this implies in practice. Firms which will admit (in private) to revenues and profits on any scale from conveyancing must be wondering where to find an alternative source of income. Developing new investment services to clients is one possibility which has already been canvassed by a number of law practices; and this area will almost certainly be explored more actively by solicitors quietly seeking fresh areas of professional opportunity. Having risked this modest prediction, perhaps a slightly bolder one of answering the question can now be attempted: what will these firms find when they investigate the demand for investment advice and financial services?

One definite reply is: competition. Insurance brokers and stockbrokers are already vying fiercely with the banks for the job of managing investment portfolios; and a new breed of putative professionals called financial advisers—the Americans know them as investment counsellors—are also bidding for portfolio management responsibilities. All these competing groups offer recommendation on investment opportunities; advice on tax concessions, pensions and insurance; an administrative service to help keep track of investment gains and losses; know-how about buying and selling; and plausible wisdom about the Finance Act, the state of the nation, and even in some cases what will win the 6.30 at White City.

The trouble with some of the new entrants to the financial services market—excluding of course the established firms of brokers and the banks—is they are in it because they hope to make very good gains for themselves in the short-term, without having much interest in 3 to 5-year investment horizons. Of a few the question might be asked (which may become 1979's test of probity): would you buy a second-hand raincoat from this man? Solicitors are regarded by their clients as more reliable sources of advice—as professionals who will not temper their investment counsel to increase the commission they will receive from the insurance company or investment institution in which a client places his savings.

In 1979 lawyers who study clients' needs for financial advice and services may well conclude that there are opportunities for a practice with established contacts and a number of client investment portfolios already in hand. At the same time, it might also be concluded that the routines of managing the portfolio and keeping up with the massive flow of information on investment conditions and opportunities are difficult for the busy law firm to handle.

There are three main solutions open to partners who reach these conclusions. One is to invest in people and systems to cope with this work. The second is to develop informal links with reliable firms of stockbrokers or insurance brokers who can administer clients' portfolios effectively on behalf of the law firm. The third is to look elsewhere for the opportunity to diversify the practice's sources of revenue.

At a hazard more law practices will look seriously at the second of these possibilities in 1979 than did so in 1978. One reason is that the stock market is much less attractive to private investment clients than it used to be. The growth of tax-favoured institutional investment, the relatively poor record of equity markets in recent years, and the increasing sophistication of investment analysis have prompted private investors to look to other possibilities. Property, gilts, bonds, trusts, valuables, antiques, works of art, even thoroughbred bloodstock, commodity syndicates, and private ventures are all attracting wider investment interest—a trend which is also likely to continue in 1979.

These investments can be grouped into two main categories. The first requires the investor to enter into an agreement in which the fine print can be important. Advice based on familiarity with the problems which sometimes arise (for instance, if the investor wants to cash a holding early) can be of considerable value to clients. Secondly, there are the investments where knowledge of valuers and dealers or agents can be important. In the case of property or collectors' pieces, the contacts lawyers build up in the course of advising clients and administering estates can be very helpful to investors. In other words, many law firms are perhaps better placed than they might initially believe to assist investment clients. In practice, guidance is often given informally, but without billing it as investment advice.

The other challenge to prophecy is to choose the investment sector which will turn out to have the best prospects in 1979. Venturing an arm or a neck, it seems that property development activity is rapidly increasing; and if interest rates fall, as many commentators predict they will later this year, then there could be a further acceleration in the number of schemes being initiated. This would mean better fortunes for construction companies and suppliers of building materials; and investors owning well-located properties could receive attractive bids. All of which could of course prove totally wrong if the aftermath of the election causes a change of political prospects and economic expectations for the developers.

Judicial Appointments

Mr David Bruce McNeill, QC and Miss Margaret Myfanwy Wood Booth, QC have been appointed judges of the High Court of Justice in succession to Mr Justice Thesiger and Mrs Justice Lane, who will retire in the Christmas vacation. The Lord Chancellor will assign Mr McNeill to The Queen's Bench Division and Miss Booth to the Family Division. Both appointments will be effective from January 10, 1979.

Mr Justice Melford Stevenson will retire from the High Court at the end of the Easter Term.

Public Trustee

Following the death of Mr A A Creamer DFC, the Lord Chancellor has appointed Mr Joseph Radford to be the Public Trustee.

Comment

Tyme, Gentlemen

Patrick Purpoole

Throughout our history the normally law-abiding and even lethargic character of the average English has encouraged their rulers, in conspiracy with the rich, sometimes hereditary aristocrats, sometimes jumped-up gutter millionaires, to rob and exploit them. Occasionally, when they have gone too far, they have provoked violent protest. That point is now being reached in the great motorway racket, inextricably linked with the great motor vehicle racket and the great petrol racket, as well as the great "development" and land speculation racket. The motorway cuts swathes of concrete through town and countryside, obliterates homes and gardens, cuts farms in two, disfigures landscapes, pollutes the air with poisons, panders to the addiction of meaningless toing and froing, makes every place within sound range of it unfit for human habitation, destroying peace and quiet enjoyment. Its protesting victims are contemptuously brushed aside by the technototalitarian mandarins of the Ministry as negligible cranks blind to the abstract beauties of economic growth and its material rewards to those who dedicate their lives to it.

But reported disturbances at those facade "public inquiries" (about as impartial as a Soviet show trial), which are a ritual prelude to the *fait accompli* and the *coup de grace*, have destroyed that quiescence, which produced so satisfactory an illusion of general "consensus". The great instrument of that change has been John Tyme, till 1977 a lecturer at Sheffield Polytechnic, who has become a sort of ubiquitous knight errant charging up and down the country whenever there was a possibility of cutting, or anyhow hacking at, the concrete tentacles which are choking the true life of England on the plausible pretext of promoting a deceptive affluence in a dehumanised and blighted wasteland. He disrupts public inquiries, exposes administrative and procedural illegalities, denounces prejudice (in the strict sense of making a ministerial decision first and holding an inquiry afterwards). He co-ordinates hitherto bewildered and unorganised opposition. While encouraging his supporters to practice a technique of non-violent civil disobedience on the Gandhi model, he has become the scourge of the men at the Ministry, the dedicated allies of all those wealthy businessmen and their hangers on, hell bent on promoting their own personal economic growth no matter what they bulldoze in the process.

Now John Tyme had compiled a brief account of his campaign, its battles, its victories, its defeats, Winchester, the Aire Valley, Epping Forest and many more, in a small book, *Motorways Versus Democracy* (Macmillan Press, £2.95). In a sober preface David Widdicombe QC writes that our public inquiry system "as applied to Government sponsored projects like motorways is thoroughly unsatisfactory. This is partly because the Government combines the roles of advocate for the scheme and judge of the objections to it, compounding this unfairness by appointing as inspectors at the inquiries persons such as ex-civil servants who do not strike the public as independent. Far more important, though, is the embargo placed at the inquiry on all discussions on the main thing everyone wants to discuss, namely whether the project should take place at all." With unlimited funds and accumulated expertise at its disposal, the Ministry enjoys a preponderating advantage, even when its secretive methods do not call in the additional surprise element of conspiracy and ambush. By offering alternative routes it can divide its enemies into panic stricken groups anxious only to keep the inevitable monstrous intrusion as far away from themselves as possible. Tyme's single-minded attack on motorways is rooted in principle. It is best to quote his own words: "None of our national enemies have so mutilated our cities, undermined the long-term economic movement of people and goods, destroyed our industrial base, diminished our ability to plan our community life, and reduced our capacity to feed ourselves. The more highways we build, the more we generate traffic to fill them, the greater the congestion and snarl-ups, and then the more highways we require to build. The more we build, the more we confirm and perpetuate the horrendous accident level . . . as motorways generated traffic makes its way onto crowded city and suburban streets. The more roads and motorways built, the more inevitable is the decline in alternative transport modes. The more roads, the greater the housing loss and destruction of community, and the less house-building and resources for hospitals, schools and other social services. The more highways, the more we are committed to the disaster of "dispersal planning" based upon the notion that distance between residence and work, shops and schools, recreation and social services is irrelevant; and the more dispersal planning the greater the loss of land and agricultural production." In short, motorway mania is an unmitigated disaster, socially, economically and aesthetically.

In the face of this complex of evils Tyme believes that it is the right and even the duty of a good citizen to commit (if need be) a small crime in order to frustrate a great one. In this he stands in line with all the great English protestors against the overwhelming and illegitimately exercised power of the State, men like Robert Aske, Hampden and William Cobbett. He does not shrink from suggesting the workings of corrupt influences, and the revelations of Poulsonism in the handling of government agencies have provided illuminating glimpses of how the thing is worked. There are more ways of bribing a man than by handing him a bag of gold.

But, putting actual corruption aside, the whole process by which the supposed necessity for motorways is determined is unbalanced. The men at the Ministry must not be allowed to smother the recent report of Sir George Leitch with its fundamental criticisms of the way the assessment is dominated by factors which are susceptible of valuation in many terms. He wrote: "So long as a significant number of informed people believe that current practice does not adequately consider their society's interests, then public inquiries will be acrimonious, lengthy and expensive."

More recently a document circulated internally in the Department of Transport and inadvertently made public, revealed the close and partisan cooperation between civil servants and private road haulage interests in their campaign to promote legislation to raise the permitted weight level of juggernaut lorries as well as "do good to their now sadly tarnished image".

Against this background Tyme's campaign can be seen as a necessary counterblast to covert manipulations of policy. The battles of the motorways, of which the public heard far too little in detail in the press, are chronicled, in this little book, which should stand for the writing on the walls of the looming environmental bastille in Marsham Street, "Time, gentlemen, please", before the English Gandhi turns into the English Danton.